

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 2013-60783 PEME

██████████

████████████████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ ██████████ Appellant's authorized representative, appeared on behalf of the Appellant. ██████████, Appeals Review Officer, represented the Department. ██████████ Medicaid Analyst with the PEME Program appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for a Pre-Eligibility Medical Expense offset (PEME)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is an ██████-year old Medicaid beneficiary (██████████ (Testimony).
2. The Appellant is admitted to a nursing facility ██████████ (Exhibit A, pp. 2, 5-6).
3. The Appellant was approved for Medicaid effective ██████████ retroactive to ██████████ (Exhibit A, p. 1).
4. On ██████████ the Appellant was issued a statement itemizing charges billed and payments received from ██████████ through ██████████, with a balance due of ██████████ (Exhibit A, pp. 5-6).

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5. On ██████████ the Appellant requested a Pre-Eligibility Medical Expense (PEME) offset for the balance due on the ██████████ statement. (Exhibit A and testimony).
6. On ██████████ the Department denied the Appellant's request for PEME offset – because the amount due was the Appellant's Patient Payment Allowance (PPA) for June and part of ██████████ (Exhibit A, p. 2 and testimony).
7. The Appellant was notified of the negative action on ██████████ (Exhibit A, p. 2 and testimony).
8. The Appellant's request for hearing was received by the Michigan Administrative Hearing System on ██████████ (Exhibit A, p. 4)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program

Medicaid eligibility is a responsibility of the Department of Human Services through a contract with the Department of Community Health. The Department of Human Services is also responsible for determining a beneficiary's patient pay amount at the time of long-term care Medicaid eligibility. The Code of Federal Regulations requires a nursing facility to collect the total patient pay amount. [42 CFR 435.725]

Accordingly, the NF is [presumably] well motivated and required under the Medicaid Provider Manual to check and verify the Medicaid status of all residents and to instruct the payor on payment practices.

It is axiomatic that it is the “[p]roviders responsibility to determine eligibility/enrollment status of patients at the time of treatment... Providers are advised to check the eligibility response for changes of enrollment status prior to billing... Split billing is not permitted....It is the provider's responsibility to determine eligibility/enrollment status of beneficiaries at the time services are provided...” See generally, *Medicaid Provider Manual* §4 and §8 *Billing and Reimbursement for Institutional Providers*, April 1, 2013, pages 11 through 40

Policy covering a Pre-Eligibility Medical Expense (PEME) offset is contained in the Bridges Eligibility Manual, BEM 164, p 2-3 of 4, 7-1-2013. BEM 164 states in part:

Patient Pay Offsets

If an LTC applicant requests an offset of their patient pay to cover old medical bills, see Pre-Eligibility Medical Expense (PEME) in glossary and in this item. Assist the applicant by forwarding their unpaid bills to:

Medical Services Administration
Michigan Department of Community Health
P.O. Box 30479
Lansing, MI 48909-9634
Attn: PEME

DCH will determine whether an offset is allowable.

Offsets will be applied to the months following an approval. In general, the allowable expenses are the same as allowed for a group 2 deductible case. In addition, the medical expense(s) must be:

- Unpaid, and an obligation still exists to pay.
- Cannot be from a month where Medicaid eligibility existed.
- Cannot be covered by a third party source (public or private).
- Cannot be from a month in which a divestment penalty has been imposed.
- Cannot have been used previously as a pre-eligibility medical expense to offset a patient pay amount.
- Can include cost of room and board for Medicaid LTC facilities, remedial care, and other medical expenses recognized by Michigan law but not covered under the Michigan state plan.
- Must be reported prior to the first Medicaid redetermination following the initial eligibility.
- DCH will terminate offsets if there is a failure to pay the medical provider with the funds. (Emphasis added).

The *Bridges Policy Glossary 7-1-2013* contains the following definitions:

PATIENT-PAY AMOUNT (PPA)

The monthly amount of a person's income which Medicaid considers available for meeting the cost of hospital or LTC services. Medicaid reduces its payment to the hospital/LTC facility by the patient-pay amount.

There are different types of PPAs: hospital, and post-eligibility. Hospital PPAs are used to establish income eligibility (see BEM 545). A post-eligibility PPA is determined only after MA eligibility is established. (See BEM 546). A person can have only one type of PPA for any given calendar month. [p. 46 of 69, emphasis added].

* * *

PRE-ELIGIBILITY MEDICAL EXPENSE

Unpaid medical expenses incurred in the three months prior to application for Medicaid. The offset is only allowed if used to pay the provider(s) for the medical expense and will be terminated if the recipient fails to pay the provider. In general the allowable expenses are the same as allowed for a group 2 deductible case. In addition, the medical expense(s) must be:

- Unpaid, and an obligation still exists to pay.
- Cannot be from a month where Medicaid eligibility existed.
- Cannot be covered by a third party source (public or private).
- Cannot be from a month in which a divestment penalty has been imposed.
- Cannot have been used previously as a pre-eligibility medical expense to offset a patient pay amount.
- Can include cost of room and board for Medicaid long term care (LTC) facilities, remedial care and other medical expenses recognized by Michigan law but not covered under the Michigan state plan.
- Must be reported prior to the first Medicaid redetermination following the initial eligibility.
- DCH will terminate offsets if there is a failure to pay the medical provider with the funds. [p. 35 of 48, emphasis added].

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The Department's witness testified that the amount due on the Appellant's statement for which he was seeking a PEME offset was a portion of his and his PPA. The Department's witness established that according to the above quoted policy a PPA is not allowed to be offset. It is not considered a medical expense, it's the beneficiary's obligation to pay, and it is incurred while the beneficiary is receiving full Medicaid coverage. Accordingly, the denial was proper because the Appellant's medical expense was covered by a third party source, i.e., Medicaid.

The Appellant has failed to preponderate his burden of proof that the Department erred in denying her request for application of a PEME offset.

DECISION AND ORDER

The Department properly denied the Appellant's request for a PEME offset.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

William D Bond

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearings System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearings System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.