

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING 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. - 14-010988

██████████

██████████

Appellant

_____ /

DECISION AND ORDER

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

After due notice, a hearing was held on ██████████. Attorney ██████████ appeared on Appellant's behalf. ██████████ the Appellant's niece testified on the Appellant's behalf. ██████████, 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. Appellant is a ██████-year old Medicaid beneficiary, born ██████████ (Bridges).
2. Appellant filed a retroactive application for Medicaid on ██████████ and was approved for Medicaid retroactive to ██████████. (Exhibit A, pp. 1, 2, 5 and testimony)
3. Appellant incurred expenses in her long term care facility from ██████████ through ██████████. (Exhibit A, p. 1 and testimony).
4. On ██████████ Appellant requested Pre-Eligibility Medical Expense (PEME) offset for the balances incurred in ██████████ through ██████████. (Exhibit A, p. 1 and testimony).

5. The Department approved coverage for the [REDACTED] expenses, but denied Appellant's request for coverage for the August through [REDACTED] expenses because the amount due was not incurred in the [REDACTED] months prior to Medicaid application submitted in [REDACTED]. (Exhibit A, p. 1, 4 and testimony).
6. Appellant's request for hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (Exhibit A, pp. 8-11).

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.

Policy covering a Pre-Eligibility Medical Expense (PEME) offset is contained in the Bridges Eligibility Manual, BEM 164, p 2-3 of 4, 4-1-2014. 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 7-1-2014* contains the following definitions:

INITIAL APPLICATION

The most recent application used to establish eligibility at the time any currently active assistance program was opened. (p. 34 of 70).

* * *

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.

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- 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. [pp. 50-51 of 70, emphasis added].

The Department's witness testified that she denied Appellant's request for PEME offset for the expenses incurred in August through [REDACTED] because the amount due was not incurred in the three months prior to Appellant's retroactive Medicaid application filed in [REDACTED]. The expenses incurred in [REDACTED] were approved. As indicated above, Appellant incurred expenses in her long term care facility in [REDACTED] through [REDACTED]. [REDACTED] through [REDACTED] 013 are more than three months prior to Appellant's Medicaid application in [REDACTED]. The Department's witness stated the Medicaid application date it must go by is the Medicaid application that resulted in the Appellant's approval for Medicaid which was the application filed on [REDACTED]

Appellant's niece testified an application for Medicaid was filed on the Appellant's behalf in "about" [REDACTED]. The niece said she filled out the application, but the Appellant's husband [REDACTED] signed the application. The niece said the application was dropped off at the office at [REDACTED] and [REDACTED] apparently filed the application with DHS. It was also represented that this application was denied, and a hearing was held reversing the denial of the application said to have been filed in "about" [REDACTED]. The niece claimed that Medicaid has paid some of the nursing home bills from [REDACTED] through [REDACTED]. No documentary evidence corroborating the niece's testimony was available for admission during the hearing.

The policy in BEM 164 clearly states that offsets will be applied to the months following an approval. This policy indicates that offsets can only be applied following an approval therefore the relevant application is the one resulting in an approval. The definition in the Bridges Policy Glossary defines initial application as the most recent application used to establish eligibility at the time any currently active assistance program was opened. This definition also supports the determination that the relevant application for purposes of granting a PEME offset is the application that resulted in the Appellant's approval for Medicaid. Accordingly, the Department must look to [REDACTED], the date the "initial application" was filed and unpaid medical expenses incurred in the three months prior to the [REDACTED] application [REDACTED] through [REDACTED]) would qualify as PEME's.

Based on the above findings of fact and conclusions of law, Appellant has failed to prove, by a preponderance of the evidence that the Department erred in denying her request for application of a PEME offset to the expenses incurred in [REDACTED] through [REDACTED]. The definition in the Glossary clearly states that PEME's are "unpaid medical expenses

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incurred in the [REDACTED] months prior to application for Medicaid. Here, the application for retroactive Medicaid that Appellant filed on [REDACTED] that resulted in the Appellant's approval for Medicaid is the application that must be considered by the Department. The [REDACTED] months prior to the application would be [REDACTED] through [REDACTED]. As such, the Department's denial of a PEME offset for expenses incurred in [REDACTED] through [REDACTED] must be upheld.

DECISION AND ORDER

The Department properly denied Appellant's request for a PEME offset for the expenses incurred in [REDACTED] through [REDACTED]

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

William D Bond

William D. Bond
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

****NOTICE****

The Michigan Administrative Hearing 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 Hearing 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.