

Docket No. 14-006634 MSB
Hearing Decision & Order

5. The Department denied Appellant's request for PEME offset because the amount due was not incurred in the [REDACTED] months prior to Medicaid application submitted in [REDACTED]. (Exhibit A, p. 4; Testimony).
6. Appellant's request for hearing was received by the Michigan Administrative Hearing System on [REDACTED] (Exhibit A, p. 3)

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 because the amount due was not incurred in the three months prior to Medicaid application in ██████████. As indicated above, Appellant incurred expenses in his long term care facility in ██████████ and ██████████. Both ██████████ and ██████████ are more than three months prior to Appellant's Medicaid application in ██████████. 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 ██████████

Appellant's representative noted that they had filed an application seeking Medicaid eligibility for the Appellant in ██████████ and asked why the date of that application did not apply in this case. 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 ██████████. Appellant's representative also noted that Appellant was made eligible retroactively to ██████████ and asked why they did not go by the eligibility date for the PEME offset. The Department's witness stated the policy requires them to go by the application date not the eligibility date.

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 ██████████, the date the "initial application" was filed and unpaid medical expenses incurred in the ██████████ months prior to the ██████████ application (██████████ through ██████████) 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 his request for application of a PEME offset. The definition in the Glossary clearly states

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that PEME's are "[u]npaid medical expenses incurred in the three months prior to application for Medicaid. Here, the application for 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 the medical expenses incurred in [REDACTED] and [REDACTED] must be upheld.

DECISION AND ORDER

The Department properly denied 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 Nick Lyon, 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.