

**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. 2014-12435 PEME
Case No. [REDACTED]

[REDACTED]

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 [REDACTED]. [REDACTED], Appellant's authorized representative, appeared on Appellant's behalf. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], 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 [REDACTED]-year old Medicaid beneficiary, born [REDACTED] (Exhibit 1; Testimony).
2. Appellant applied for Medicaid in [REDACTED] and was approved for Medicaid retroactive to [REDACTED]. (Exhibit A, p 2; Testimony)
3. Appellant incurred expenses in his long term care facility of \$ [REDACTED] in [REDACTED] and \$ [REDACTED] in [REDACTED]. (Exhibit A, p 1; Testimony).
4. On [REDACTED] and again on [REDACTED], Appellant requested Pre-Eligibility Medical Expense (PEME) offset for the balances incurred in July and [REDACTED]. (Exhibit A, p 1; Testimony).
5. The Department denied Appellant's request for PEME offset because the amount due was not incurred in the three months prior to Medicaid application in [REDACTED]. (Exhibit A, p 1; Testimony).

6. Appellant's request for hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (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.

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:

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 she denied Appellant's request for PEME offset because the amount due was not incurred in the three months prior to Medicaid application in [REDACTED]. As indicated above, Appellant incurred expenses in his long term care facility of \$ [REDACTED] in [REDACTED] and \$ [REDACTED] in [REDACTED]. Both [REDACTED] and [REDACTED] are more than three months prior to Appellant's Medicaid application in [REDACTED].

Appellant's representative testified that on [REDACTED], she assisted Appellant in filing an application for Medicaid along with a document titled "Retroactive Medicaid Application", asking that Appellant's Medicaid eligibility, if approved, be retroactive to [REDACTED]. Appellant's representative argued that the "application" date referred to in the Glossary above was, therefore, [REDACTED] because the definition does not say prior to the application "date", it just says three months prior to the application. Appellant's representative further argued that if the application date is [REDACTED], the expenses at issue here were within three months of the application date and should be covered.

The Department's witness responded that the only Medicaid application date it was aware of, and which it must go by, was the date the Medicaid application was filed, [REDACTED].

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 that PEME's are "[u]npaid medical expenses incurred in the three months prior to application for Medicaid". Here, the only application for Medicaid that Appellant filed was in [REDACTED]. Three months prior to the application would be [REDACTED]. The fact that Appellant filed a Retroactive Medicaid Application so that Medicaid would cover expenses back to [REDACTED] does not change the fact that those applications were filed in [REDACTED]. As such, the Department's determination must be upheld.

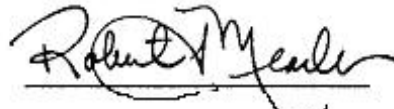
[REDACTED]
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DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc: [REDACTED]
[REDACTED]

Date Signed: January 15, 2014

Date Mailed: January 15, 2014

***** 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.