



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 21, 2016
MAHS Docket No.: 16-006273
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

DECISION AND ORDER

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

After due notice, a telephone hearing was held on June 21, 2016. [REDACTED], Petitioner's daughter, appeared and testified on Petitioner's behalf.

[REDACTED], Appeals Review Officer, represented the Michigan Department of Health and Human Services (MDHHS or Department). [REDACTED], Department Specialist, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's request for a Pre-Eligibility Medical Expense (PEME) offset for the month of [REDACTED]?

FINDINGS OF FACT

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

1. Petitioner is an [REDACTED] year-old Medicaid beneficiary, born [REDACTED]. (Exhibit 1; Testimony)
2. On [REDACTED], Petitioner's first Medicaid application was filed. The application was denied on [REDACTED] because Petitioner was unable to provide all of the requested documentation. (Exhibit A, pp 18-23; Testimony)

3. On [REDACTED], Petitioner reapplied for Medicaid and was approved on [REDACTED], retroactive to [REDACTED]. (Exhibit A, pp 3, 15, 24; Testimony)
4. On [REDACTED] 5, Petitioner applied for retroactive Medicaid, which was approved retroactive to [REDACTED]. (Exhibit A, pp 3, 15, 25-26; Testimony)
5. On [REDACTED], Petitioner applied for a PEME to cover Petitioner's medical bills for [REDACTED]. (Exhibit A, p 9; Testimony)
6. On [REDACTED], the Department sent Petitioner written notice that the request for a PEME offset was denied for the month of [REDACTED] because policy provides that PEME can only be approved in the three months prior to a Medicaid application that leads to eligibility. (Exhibit A, pp 16-17; Testimony)
7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Petitioner's daughter in this matter. (Exhibit 1)

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.

Here, Petitioner applied for a PEME offset and, with respect to that patient pay offset, Bridges Eligibility Manual 164, October 1, 2014, pages 2-3, provides:

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:

- Expenses incurred in the three months prior to application for Medicaid.
- 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.

Pursuant to the above policy, the Department denied Petitioner's request for a PEME offset in this case because the expenses for [REDACTED] did not occur in the three months prior to Petitioner's [REDACTED] Medicaid application that led to eligibility. Given that [REDACTED] was four months prior to the [REDACTED] application, the Department's Specialist indicated that she had no choice but to deny the requested PEME for [REDACTED] pursuant to policy.

Petitioner's daughter testified that she started Petitioner's Medicaid application right after Petitioner had a brain aneurism and went into a nursing home. Petitioner's daughter indicated that the social worker she worked with at the nursing home was very busy and she had to ask for extensions in the application process because she could not get a cash value on a Colonial Penn life insurance policy. Petitioner's daughter testified that when the first application was denied in [REDACTED] due to lack of

information on the Colonial Penn policy, the Department and the social worker at the nursing home informed her to just reapply for Medicaid, which she did. Petitioner's daughter testified that she was finally able to get the cash value of the Colonial Penn policy, which turned out to be \$35, and her mother's Medicaid application was approved, ultimately retroactive to [REDACTED]. Petitioner's daughter requested that the Department reconsider its decision based on the circumstances so that her mother's bills can be paid and the collections activities against her will stop.

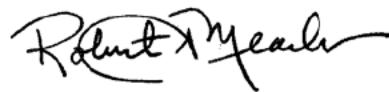
Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred. Based on the evidence presented, the Department's decision was proper. Policy clearly states that a PEME can only be approved for expenses incurred during the three months prior to the registration of a beneficiary's Medicaid application and that the definition of a Medicaid application is an application that leads to eligibility. Here, Petitioner's Medicaid application that lead to eligibility was filed in [REDACTED], so a PEME could only be approved for the months of June, July, and [REDACTED], but not for the month of [REDACTED]. Unfortunately, the undersigned administrative law judge has no authority to contravene clear policy or any equitable powers to grant Petitioner the relief she seeks. Therefore, the Department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's request for a PEME for the month of [REDACTED].

IT IS THEREFORE ORDERED THAT:

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



RM/cg

Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

[REDACTED]

Agency Representative

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

DHHS Department Rep.

[REDACTED]