



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: December 10, 2024
MOAHR Docket No.: 24-011911
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon Petitioner’s request for a hearing.

After due notice, a telephone hearing was held on December 5, 2024. [REDACTED], Petitioner’s Daughter and Authorized Hearing Representative, appeared and testified on Petitioner’s behalf. [REDACTED], Long-Term Care Ombudsman appeared as a witness for Petitioner. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Tracey Distell, Department Specialist, testified as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly deny Petitioner’s request for a pre-eligibility medical expense (PEME) offset?

FINDINGS OF FACT

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

1. On April 23, 2024, Petitioner applied for Medicaid and was approved for Plan First. (Exhibit A).
2. As of April 23, 2024, Petitioner did not qualify for Long Term Care Medicaid due to excess assets. (Exhibit A; Testimony).
3. In August 2024, Petitioner reapplied for Medicaid and was approved for Long Term Care Medicaid effective August 1, 2024. (Exhibit A; Testimony).

4. On September 12, 2024, the Petitioner requested a PEME offset for outstanding medical expenses from June 2024, through July 2024. (Exhibit A; Testimony.)
5. On October 21, 2024, the Department sent Petitioner a notice indicating Petitioner did not qualify for the offset of the Patient Pay Amount because the medical expenses submitted were not incurred in the 3 months immediately preceding the initial Medicaid application. (Exhibit A; Testimony).
6. On October 29, 2024, the Michigan Office of Administrative Hearings and Rules received a request for hearing from Petitioner. (Exhibit A).

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 statutes, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

With respect to PEME through Medicaid, Bridges Eligibility Manual (BEM) 546 (10-1-24), in effect at the time of the decision in this case, provides:

PRE-ELIGIBILITY PATIENT PAY OFFSETS(PEME)

Long-term care (LTC) facilities may deduct the following from a person's patient-pay amount:

- The cost of certain medically necessary services not covered by MA such as chiropractic, podiatry, dental (other than emergency dental and oral surgery) and hearing aid dealers, and
- The MA co-payments for covered services.

The remainder of the patient-pay amount is then applied to the cost of care provided by the LTC facility. The Department of Health and Human Services determines whether an offset is allowable.

Patient-pay amounts are **not** offset by local office staff. Contact the PEME unit at MDHHS-MSA-PEME@michigan.gov with requests to offset a patient pay to cover old medical bills, see PEME in glossary and in this policy.

MSA will determine whether an offset is allowable.

Pre-Eligibility Medical Expenses (PEMEs) are unpaid medical expenses incurred in the three months prior to the application for Medicaid.

The offset of the PPA is only allowed if the money is used to pay the provider(s) for the incurred medical expense and will be terminated if the recipient fails to pay the provider.

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.
- *The expenses were incurred in the three months prior to the **initial approved application for Long Term Care Medicaid.***
- 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.
- Request for PEME must be made within one year after eligibility for LTC Medicaid has been established and prior to the first Long Term Care Medicaid redetermination following the approved LTC application.

Note: MSA will terminate offsets if there is a failure to pay the medical provider with the funds.¹

¹ BEM 546, Post-Eligibility Patient-Pay Amounts, October 1, 2024, p 31.

With respect to definitions, the BPG Glossary provides the following:

INITIAL APPLICATION

The **most recent application used to establish eligibility** at the time any currently active assistance program was opened.²

Here, as discussed above, the Department denied Petitioner's request for a PEME offset citing the application to be used should be the April 2024 application as this was the initial application.

The Policy provided defines initial application as "[t]he most recent application used to establish eligibility at the time any currently active assistance program was opened."³

Based on the definition of "initial application", the August 2024 application would be treated as the "initial application" for establishing full Medicaid eligibility, rather than the April 2024, application, which resulted in enrollment in Plan First, a limited Medicaid benefit program.

With the August 2024 application serving as the basis for eligibility, the medical expenses incurred in June and July 2024 could qualify as PEME, provided they meet Medicaid's PEME criteria. This interpretation would align with Medicaid's intent to cover eligible pre-application costs under the appropriate program.

Given the record and applicable policies in this case, Petitioner has met their burden of proof, and the Department's decision must be reversed.

DECISION AND ORDER

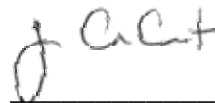
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department improperly denied Petitioner's request for a PEME offset.

IT IS THEREFORE ORDERED that:

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

The Department is further ordered to initiate the reprocessing of Petitioner's PEME offset request

CA/sj



Corey Arendt
Administrative Law Judge

² Bridges Policy Glossary, Glossary June 1, 2024, p 28.

³ Ex A, p 28.

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 10th day of December 2024.

S. James

S. James
**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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