

STATE OF RHODE ISLAND  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES APPEALS OFFICE

v.

DOCKET No. 25-1741

DEPARTMENT OF HUMAN SERVICES

**DECISION**

**I. INTRODUCTION**

A telephonic hearing on the above-entitled matter was conducted by an Appeals Officer on June 11, 2025. The Rhode Island Department of Human Services (DHS) and Peter A. Hainley, Esq. (Attorney) representing [REDACTED] (Appellant) were present. The Appellant initiated this matter to appeal the Benefits Decision Notice (BDN) dated April 2, 2025, for Medicaid Long-Term Services and Supports (LTSS). The BDN stated the Appellant was approved for Medicaid LTSS-Medically Needy Spenddown but the Cost of Care (COC) did not reflect the request for a Pre-Eligibility Medical Expense (PEME) deduction off the COC. For the reasons discussed in more detail below, the decision has been decided in the Appellant's favor.

**II. JURISDICTION**

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. §42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to Medicaid LTSS. The Administrative Hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. §42-35-1 et. seq., and EOHHS regulation 210-RICR-10-05-2.

### **III. ISSUE**

The issue is whether DHS properly denied the Appellant's PEME request and calculated the COC correctly, in accordance with the Medicaid regulations, as set forth below.

### **IV. PARTIES AND EXHIBITS**

LTSS Appeals Representative Michael Pangman attended the telephonic hearing and provided testimony on behalf of DHS.

Attorney Hainley presented the arguments on behalf of the Appellant. These arguments are based on the BDN issued on April 2, 2025, subsequent appeal filed, and cited regulations.

### **V. RELEVANT LAW and/or POLICY**

The Rhode Island Code of Regulations (RICR) for EOHHS in effect at the time of the Agency action as cited on the BDN, 210-RICR-50-00-8 "Medicaid Long-Term Services and Supports: Post-Eligibility Treatment of Income (PETI)" states in part that all Medicaid LTSS beneficiaries are required to contribute income toward the COC. Specifically, §8.7 "Health Expenses"; (A)(1) "Health Coverage Costs" states in part that additional amounts of a beneficiary's income may be protected to cover medical/health costs incurred. This includes certain health coverage costs such as premiums, co-payments and deductibles that are not subject to payment by Medicaid or a third party, may be deducted off the beneficiary's income.

(A)(2) "Allowable Medical Expenses" states in part that unpaid past expenses for medically necessary services may be deducted from the beneficiary's available income in certain circumstances. These expenses must meet all the criteria to be considered allowable and exclude expenses already used to meet the beneficiary's spenddown. The allowable expense must be

31, 2025. The BDN further states that all Medicaid LTSS beneficiaries who have enough income must pay a share of the costs for coverage pursuant to 210-RICR-50-00-8.

3. The BDN did not show the PEME deduction off the COC, so the Appellant's Attorney filed a timely appeal on April 15, 2025. The appeal stated in part that the Appellant's application was filed with \$14,250.00 PEME and should have been an allowable deduction off his COC, but instead was denied by DHS with no reason noted.

4. DHS denied the PEME request, but no documentation or regulations were provided to support the decision.

5. DHS did not dispute that the Appellant's PEME met all the criteria to be deducted off the COC, until fully depleted.

## **VII. DISCUSSION**

The LTSS Appeals Representative maintains that he referred this case to his LTSS Senior Supervisors and Administration who denied the PEME request. The LTSS Appeals Representative testified he was not given any time to research the case details and regulations pertaining to the PEME request prior to this hearing. Furthermore, the Senior Supervisors and Administration who denied the Appellant's PEME request did not provide any regulations or details to support the denial.

The Attorney argued the Appellant applied for Medicaid LTSS in July 2024. The Appellant paid his full COC in the month of May 2024 and did not have any money to pay the June 2024 COC for \$14,250.00. A copy of the nursing facility invoice was provided with the application and the PEME request is for the month of June 2024. The Appellant's Medicaid LTSS was approved effective July 1, 2024, but the COC's stated on the BDN's were incorrect. The COC should have reflected a \$0.00 patient share until the full PEME is applied which would

medically necessary, not be covered by Medicaid, not be eligible for a third-party payment, and must be unpaid and incurred prior to the application date.

(A)(3) “Limits” states in part that if the above conditions apply, the expense may still not be allowed in certain circumstances. The expense cannot be incurred during a penalty period or be used for other reductions.

(A)(5) “Deduction Timeline” states in part that allowable expenses are deducted in the LTSS income calculation for the month in which the expense is incurred. Additionally, expenses that were incurred in the three months prior to the month the request for payment of LTSS services is submitted can be deducted beginning in the first month of eligibility.

(A)(6) “Excess Carryover” states in part that the excess of an allowable expense can be carried forward and used as a deduction in the future months.

Similarly, the Code of Federal Regulations 42 C.F.R. §435.725 for post-eligibility treatment of income specifically (c)(4) and (f) states in part, medical or remedial incurred expenses that are not subject to payment by a third party may be deducted off the individual’s income and then determine the amount of medical expense to be deducted for a period not to exceed six months.

## **VI. FINDINGS OF FACT**

1. The Appellant filed a Medicaid LTSS application with DHS in July 2024. The application included a June 2024 unpaid nursing facility invoice in the amount of \$14,250.00 to be used as a PEME deduction off the COC.

2. A BDN dated April 2, 2025, was mailed to the Appellant stating his LTSS-Medically Needy Spenddown is approved with a Cost of Care of \$3,718.06 for the period July 1, 2024, through December 31, 2024, and \$3,780.33 for the period January 1, 2025, through July

be about four to five months. Additionally, the Appellant has paid the patient COC continuously while the Medicaid LTSS application was pending so once the COC is \$0.00, it will cover the June 2024 expense.

The Attorney further argued that pursuant to the State regulation 210-RICR-50-00-8 §8.7(A)(1), discusses incurred healthcare costs and §8.7(A)(2) allowable medical expenses, and there is a test to determine what medical expenses are allowable under this regulation. A valid expense qualifies in a period that the beneficiary is not eligible but within the previous three months of eligibility, is unpaid upon the date of application and must not be a result of a penalty. In addition, the Federal regulation under 42 C.F.R. §435.725 (c)(4) and (f) explains that expenses not subject to third party payment are necessary medical or remedial care, and the determination of the medical expenses to be deducted from an individual's income. The Attorney further argued that in this case DHS has not given any reason as to why the PEME is not being allowed, and the regulations are clear that the PEME should be allowed. The LTSS Appeals representative did not object to the Attorney's arguments and agreed that if the PEME is allowed the COC would be \$0.00 for the months of July through October 2024.

In review of the regulation 210-RICR-50-00-8 §8.7, clearly shows that unpaid medical expenses incurred by a beneficiary may be deducted from available income. Allowable medical expenses must meet certain conditions. In this case the invoice meets the medically necessary requirement, it is considered a Non-Medicaid Service, the expense is not eligible for a third-party payment, and the expense is unpaid, and is within the allowed period. Additionally, the Appellant does not have any penalty period nor uncompensated transfers assessed in his case. After review of the Attorney's arguments and the regulations, the Appellant's nursing facility invoice met the conditions required for a PEME deduction.

## **VIII. CONCLUSIONS OF LAW**

After careful and considerate review of the Federal and State regulations for Medicaid LTSS, as well as the testimony provided this Appeals Officer concludes:

1. The Appellant's application included an unpaid nursing home invoice for \$14,250.00 of PEMEs for June 2024.
2. The Appellant's case was approved effective July 1, 2024, but the BDN issued on April 2, 2025, did not reflect the correct COC because the PEME request was denied by DHS.
3. DHS failed provide any evidence, testimony or regulations to support the denial of the PEME request.
4. DHS incorrectly denied the Appellant's PEME request, therefore the COC was also calculated incorrectly.

## **IX. DECISION**

Based on the foregoing Findings of Fact, Conclusions of Law, and by a preponderance of testimony given in this case, it is found that a final order be entered that DHS denied the Appellant's request for PEMEs incorrectly. Therefore, the Appellant's request for relief is granted.

## **X. AGENCY ACTION**

DHS is required to allow the PEME of \$14,250.00, recalculate the Appellant's COC for Medicaid LTSS, and issue a new BDN within days of 15 days from of the certification of this decision.

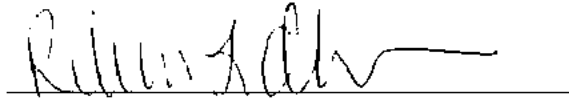
## **APPEAL GRANTED**

*/s/ Louanne Marcello*

Louanne Marcello  
Appeals Officer

### **CERTIFICATION**

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED] and via email; [REDACTED], copies were sent via email to Agency Representatives Rebecca Cahoon, Rose Leandre, Vanessa Ward, Michael Pangman, Jacqueline Neirinckx, Kirsten Cornford and DHS Policy Office on this 17<sup>th</sup> day of June, 2025.



### **NOTICE OF APPELLATE RIGHTS**

**This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.**