

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2006-24149

Issue No: 4060

[REDACTED]

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (department) to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held on July 14, 2011, at which Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received an overissuance of Medical Assistance (MA) and State Disability Assistance (SDA) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving MA and SDA benefits at all times pertinent to this hearing.
2. In 2005, a Medical Review Team (MRT) denied Respondent's reapplication for MA and SDA stating that Respondent was no longer disabled and had medical improvement. (Department Exhibit 2).
3. On May 17, 2006, Respondent appealed the denial of her MA and SDA application and the Administrative Law Judge affirmed the denial finding that the claimant had medical improvement and was no longer disabled. (Department Exhibit 2).
4. Respondent continued to receive MA and SDA while her appeal of the denial of her MA and SDA was pending. She received MA benefits in the

amount of [REDACTED] and SDA benefits in the amount of [REDACTED] (\$264.00 per month) from June 1, 2005 through May 17, 2006. (Department Exhibit 1).

5. On or about September 19, 2006, the Department mailed Respondent a Notice of Overissuance (FIA-4358-A), Repayment Agreement (FIA-4358-B) and Overissuance Summary (FIA-4358-C) indicated that Respondent received an overissuance of MA benefits in the amount of [REDACTED] and SDA benefits in the amount of [REDACTED] from June 1, 2005 through May 17, 2006. (Department Exhibit 1).
6. Respondent submitted a hearing request on September 20, 2006 protesting the debt establishment. (Request for a Hearing).

CONCLUSIONS OF LAW

The MA program is also referred to as Medicaid. PEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. PEM 105. Another category is SSI recipients. PEM 105. There are several other categories for persons not receiving FIP or SSI. PEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. PEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. PEM 105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. State Disability Assistance (SDA) is a cash program for individuals who are not eligible for the Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living together. PEM 214.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700. An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. PAM 700. Recoupment is a DHS action to identify and recover a benefit OI. PAM 700. Department errors are caused by incorrect actions by the Department. PAM 705. Department error OIs are not pursued if the estimated overissuance is less than \$500 per program. PAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$500 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. PAM 700.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700. The department error OI is caused

by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- . Available information was not used or was used incorrectly
- . Policy was misapplied
- . Action by local or central office staff was delayed
- . Computer or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

Where the type of OI cannot be identified, the department shall record it as a department error. PAM 700. For FIP, SDA, CDC and FAP, department error OIs are not pursued if the estimated OI amount is less than \$500 per program. PAM 700. Except there is no threshold limit on CDC system errors. PAM 700.

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. PAM 700. A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, and

- . The hearing request is later withdrawn, or
- . SOAHR denies the hearing request, or
- . The client or administrative hearing representative fails to appear for the hearing and SOAHR gives DHS written instructions to proceed, or
- . The hearing decision upholds the department's actions. See BAM 600. PAM Item 700, p. 5.

For FIP, SDA, CDC and FAP only, the OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the discovery date, whichever is later. PAM 705.

To determine the first month of the OI period for changes reported timely and not acted on, allow time for:

- . the full Standard of Promptness (SOP) for change processing, per PAM 220, and

- . the full negative action suspense period. See PAM 220, EFFECTIVE DATE OF CHANGE.

The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected. PAM 705. For FIP, SDA, CDC and FAP only, the OI discovery date for a department error is the date the RS can determine there is a department error. PAM, Item 705, pp. 4-5.

For purposes of MA, the department will initiate recoupment of an OI due to client error or intentional program violation (IPV) but not when due to agency error. PAM 710. The department shall not recoup OIs resulting from hearing decisions upholding DHS regarding the level of long-term care. PAM 710.

In this case, the Department is requesting recoupment for an alleged MA overissuance in the amount of [REDACTED] for the period of June 1, 2005 to June 30, 2006 while the Respondent's hearing decision was pending. Policy provides that for purposes of the MA program the department may initiate recoupment of an OI due to client error or IPV, but not due to agency error. PAM 710. According to PAM 700, this is a client error because the Respondent made a timely request for a hearing which resulted in deletion of a DHS action and then the Administrative Law Judge upheld the Department's decision. Therefore, the Department may recoup [REDACTED] for the MA OI from June 1, 2005 to June 30, 2006.

Similarly, with regard to the SDA, the Administrative Law Judge upheld the department's actions. This is also considered a client error per policy. PAM 710. When the ALJ found that the Respondent did not meet the disability standards for the Social Security Administration's regulations, the Respondent's eligibility for SDA was determined. The evidence has shown that the Respondent had received SDA benefits in the amount of [REDACTED] from June 1, 2005 through May 17, 2006. The Department is entitled to recover this OI.

The applicable policy provides that both client and Department error OIs are recouped if the amount is more than [REDACTED]. PAM 700. Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. PAM 700. In this case, the OI resulted when the Department issued MA and SDA benefit while the Respondent appealed the Department's actions. The MA and SDA payments continued pending the hearing. Once the ALJ upheld the Department's decision, however, the client error OI resulted. PAM 700. The total OI in this case ([REDACTED] for SDA benefits and [REDACTED] for MA benefits = [REDACTED]) must be recouped by the Department.

This Administrative Law Judge finds that the evidence presented by the Department shows that Respondent is responsible for repayment of the overissuance from June 1, 2005 through May 17, 2006.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of MA and SDA benefits for

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the time period of from June 1, 2005 through May 17, 2006, that the department is entitled to recoup.

The department is therefore entitled to recoup an SDA overissuance in the amount of [REDACTED] and an MA overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/27/11

Date Mailed: 7/27/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant 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 date of the rehearing decision.

CAP/ds

[REDACTED]