

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2009-6007
Issue No: 4060

[REDACTED]

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 August 16, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to the Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent received an overissuance of Medical Assistance (MA) 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 applied for and received MA benefits.
2. Respondent was informed her Medicaid case was changing to a Medicaid deductible effective August 1, 2008 and filed a timely hearing request to contest the decision. Due to the timely hearing request, the change from MA to MA deductible was pended and Respondent continued to receive MA benefits pending her hearing. (Hearing Summary).

3. On September 23, 2008, Respondent failed to show for the scheduled hearing. (Department Exhibits 10-11).
4. On September 26, 2008, the department received a letter from Administrative Hearings instructing the department to proceed with the change. (Department Exhibit 10).
5. Respondent received \$105.63 in MA benefits during the pending of the hearing regarding the change of her MA case into a Medicaid deductible case for the period of August 2008 through October, 2008. (Department Exhibits 6-9).
6. Respondent failed to appear for her hearing, resulting in a MA overissuance for the months of August 2008 through October, 2008, in the amount of \$105.63 in MA benefits. (Department Exhibits 6-9).
7. Respondent submitted a hearing request on November 12, 2008, protesting the recoupment. (Hearing Request).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Departmental policy, states that when the client group receives more benefits than the group is entitled to receive, DHS must attempt to recoup the overissuance (OI). Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725.

The OI period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy or 72 months before the date the OI was referred to the RS, whichever is later. The OI period ends the month (or pay period for CDC) before the benefit is corrected. The OI discovery date for a client or provider error is the date the RS can determine there is a client or provider error. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 700.

In accord with policy BAM 600, if a hearing request is filed timely and program benefits are restored, the department is required to recoup overissuances for MA income eligible clients if:

- The request is later withdrawn.
- MAHS denies the request.
- The client or authorized hearing representative fails to appear for the hearing **and** MAHS gives the department written instructions to proceed.
- The hearing decision upholds the department's action. BAM 600.

The overissuance is calculated from the date the negative action would have taken effect until the date the negative action is subsequently implemented. If an administrative recoupment is processed to recover an overissuance due to a hearing, a timely notice of case action is sent. In this situation, the client is entitled to a hearing solely on the issue of the recoupment amount. If a cash repayment is sought to recover an overissuance, requests for a hearing will not be granted except in FAP cases. BAM 600.

In this case, Respondent's MA case was due to change to an MA deductible case on August 1, 2008. Respondent timely submitted a Hearing Request and MA benefits continued to be paid pending the hearing. Respondent failed to show for the scheduled hearing on September 23, 2008.

Because the benefits were pended as a result of Respondent's hearing request, the department is required to recoup the benefits when the client fails to appear for the hearing. The overissuance is calculated from the date the negative action would have taken effect until the date the negative action is subsequently implemented. BAM 600. The change in Respondent's MA case was scheduled to take effect August 1, 2008. The department explained Respondent's MA case was kept open while they waited receipt of the decision. As a result of Respondent's failure to attend the hearing, the MA case was changed to a MA deductible case effective August 1, 2008.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent failed to attend the requested hearing. Therefore, Respondent is responsible for repayment of the overissuance.

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 benefits for the time period of August 2008 through October, 2008, that the department is entitled to recoup.

The department is therefore entitled to recoup MA overissuance of \$105.63 from Respondent.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

NOTICE: The law provides that within 60 days of mailing of the above Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

VLA/ds

