STATE OF MICHIGAN

STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[redacted]

Reg. No.: 201029927
Issue No.: 2000
Case No.: [redacted]
Load No.: [redacted]
Hearing Date: July 7, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 7, 2010. The Respondent did not appear. The Department was represented by [redacted], Agent, Office of Inspector General (OIG).

ISSUE

1. Did Respondent commit an Intentional Program Violation (IPV) of the Medical Assistance Program (MA)?

2. Is the Department entitled to recoup $3,987.00 in MA benefits?

FINDINGS OF FACT

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

1. On January 27, 2010, the Department's OIG filed a hearing request to establish Respondent allegedly intentionally withheld information and received an over issuance of MA benefits; and the Department is requesting to recoup $3,987.00 in MA benefits for the period of July 1, 2005, through August 31, 2005.

2. On July 22, 2005, the Respondent signed an applications/re-determinations and acknowledged the obligation to report change in the circumstances that might affect the Respondent's benefits, and stated that there was no insurance available from any employment. (Department's exhibit p. 17).

3. On August 11, 2005, the department received employment information that showed the respondent was offered and accepted COBRA benefits from an employer. (Department exhibit 6, pp. 33-34).

4. The Respondent did not report a physical or mental condition that may limit the Respondent's understanding or ability to fulfill the reporting responsibilities.

5. The Department mailed a notice of this hearing to the Respondent at his/her last known address: [redacted]; and the mail was not returned.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

In this case, the department requested a hearing; to establish an over issuance of benefits. The department's manuals provide the relevant policy statements and instructions for department caseworkers. In part, the policies provide:

> **BENEFIT OVERISSUANCES: PAM 700, p. 1**
>
> **DEPARTMENT POLICY**
>
> **All Programs**
>
> When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).
>
> The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.
>
> An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

• acknowledgments on the application form, **and**

• your explanation at application/re-determination interviews, **and**

• customer notices and program pamphlets.

The department must prevent OIs by following PAM 105 requirements and by informing the customer or authorized representative of the following:

• Applicants and recipients are required by law to give complete and accurate information about their circumstances.

• Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.

• Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

• A timely hearing request can delete a proposed benefit reduction.

> If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.
>
> Record on the application the customer's comments and/or questions about the above responsibilities. PAM 700, p.2.
>
> **INTENTIONAL PROGRAM VIOLATION**
>
> **SUSPECTED IPV**
>
> **All Programs**
>
> Suspected IPV means an OI exists for which all three of the following conditions exist:
>
> • the customer intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination; **and**
>
> • the customer was clearly and correctly instructed regarding his or her reporting responsibilities; **and**
>
> • the customer has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his reporting responsibilities.
>
> Intentional Program Violation (IPV) is suspected when the customer has **intentionally** withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the customer acted intentionally for this purpose. PAM 720, p.1

In this case, the Department has established by clear and convincing evidence that Respondent knowingly withheld the information about income and employment. The evidence shows that the respondent had accepted Cobra benefits when the respondent went on leave from her employer, Oakwood Hospital.

> As a condition of eligibility, the client must identify all third-party resources unless he has good cause for not cooperating. Failure, without good cause, to identify a third-party resource results in disqualification.

> A third-party resource is a person, entity or program that is, or might be, liable to pay all or part of a group member's medical expenses. (PEM 257, p. 1).

Here, the respondent accepted Cobra benefits from his/her employer and failed to notify the department of this resource.

> **All Programs**
> Suspected IPV means an OI exists for which all three of the following conditions exist:
>
> • the customer intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination; **and**
>
> • the customer was clearly and correctly instructed regarding his or her reporting responsibilities; **and**
>
> • the customer has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his/her reporting responsibilities. PAM 720, p. 1.

The Department is entitled to recoup the amount issued in excess of what the Respondent was eligible to receive. The undersigned reviewed the MA payments presented and the over-issuance amount of MA benefits they show; and finds the Department's MA computations to be correct. Respondent owes $3,987.00 in MA benefits. The Department is entitled to recoup this amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following:

The evidence does establish that the Respondent committed a first IPV of the MA program. The Department is entitled to recoup over issuance of MA benefits a total of $3,987.00.

Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/9/2010

Date Mailed: 8/9/2010

NOTICE: **The law provides that within** 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

MJB/jlg

cc: [redacted]