

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

Appellant,

_____ /

Docket No. 2011-46512 HHR

Case No. ██████████

DECISION AND ORDER

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

After due notice, a hearing was held on ██████████. The Appellant appeared without representation. The Department was represented by ██████████ Appeals Review Manager. Her witnesses were ██████████, ASW Supervisor, and ██████████ ASW. Also in attendance was ██████████.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services over-payments beginning ██████████?

FINDINGS OF FACT

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

- 1) The Appellant provides Home Help Services (HHS) to a Medicaid beneficiary, ██████████. (Department's Exhibit A, p. 12)
- 2) In a separate action the HHS benefit for ██████████ was reduced on ██████████ for choreprovider ██████████ to ██████████ per month. (Department's Exhibit A, pp. 4-18)
- 3) Appellant ██████████ hours and payment were reduced on advance negative action of ██████████. (Department's Exhibit A, p. 18)
- 4) On ██████████, the ASW issued a letter notifying the Appellant that an overpayment occurred for the time periods of ██████████ through ██████████, totaling ██████████. (Department's Exhibit A, throughout)
- 5) On ██████████, the Department of Community Health issued a certified

letter to the Appellant requesting that she repay ██████████ to the Home Help Program. (Department's Exhibit A, p. 1)

- 6) The Appellant's further appeal rights were explained further in the official notification of recoupment dated ██████████. (Department's Exhibit A, p. 1)
- 7) On ██████████, the Michigan Administrative Hearing System for the Department of Community Health received the instant request for hearing. (Appellant's Exhibit #1)

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

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

Services Requirements Manual (SRM 181, 6-1-07), addresses the issue of recoupment:

GENERAL POLICY

The department is responsible for correctly determining eligibility of payment of service program needs, and the amounts of those payments. In the event of payments in an amount greater than allowed under department policy, an overpayment occurs.

When an overpayment is discovered, corrective action must be taken to prevent further overpayment and the overpayment is to be recouped. The normal suspense period must be allowed for any client negative actions. An entry is to be made in the case record to document the overpayment, the cause of the overpayment and the action taken to prevent further overpayment and to recover the overpayment.

INSTANCES OF OVERPAYMENT

Four instances may generate overpayments:

- Client errors.
- Provider errors.
- Administrative errors.
- Department upheld at an administrative hearing.

APPROPRIATE RECOUPMENT ACTION

Appropriate action in these instances is to be based on the following:

1. Information given to the department by a client is incorrect or incomplete.

a. Willful client overpayment occurs when:

- A client reports inaccurate or incomplete information or fails to report information necessary to make a correct eligibility or grant determination; and
- The client had been clearly instructed regarding the client's reporting responsibilities, (a signed DHS-390 or DHS-3062 is evidence of being clearly instructed); and
- The client was physically and mentally capable of performing the client's reporting responsibilities; and
- The client cannot provide a justifiable excuse for withholding information.

b. Non-willful client errors: Are overpayments received by clients who are unable to understand and perform their reporting responsibilities due to physical or mental impairment or who have a justifiable excuse for not giving correct information.

2. Provider caused overpayment: Service providers are responsible for correctly billing for services which were authorized and actually delivered and for refunding overpayments resulting from a negative billing process (payment is issued as a result of a specialist generated payment document). Failure to bill correctly or refund overpayments is a provider error.

SRM 181 6-1-2007,
Pages 1-2 of 4.

In the present case, the Appellant basically reargued the HHS petition heard by ALJ ██████████ on ██████████, wherein the Department's action on reduction of HHS was upheld by the Administrative Law Judge. There was no appeal.

The Appellant today, ██████████, also contends that the client is in worse condition and that there is inadequate money to take him to day care and that she is providing “next to full time care” for ██████████.

The Appellant added that she thought it unfair that the prior decision did not have faster turn around and scheduling.¹

The Department witness testified that following a reassessment the Appellant-██████████ compensation was raised to ██████████ – following the ALJ’s ordered reassessment of ██████████.

The Department witness explained that hours for ██████████ were increased in the areas of bathing, mobility, eating and toileting. The increase was made effective on ██████████.

The Appellant said “it doesn’t matter because all of the money goes toward the care of the gentleman” ██████████]. She said she did not know who to call for a reassessment based on her theory of change in condition.

During the hearing, the Department indicated a payment plan could be arranged.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly sought recoupment from the Appellant/Provider in the amount of ██████████.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly pursued recoupment against the Appellant Home Help Provider.

IT IS THEREFORE ORDERED that:

The Department’s decision in seeking recoupment is AFFIRMED. The overpayment amount is ██████████.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

¹ While not an issue before this ALJ - the prior hearing for Appellant ██████████ was petitioned by him on ██████████, and heard on ██████████. The Appellant’s appeal was brought in a timely manner and the petition was scheduled and heard in a timely manner. The ALJ’s decision was mailed to the parties on ██████████.

[REDACTED]
Docket No. 2011-46512 HHR
Decision and Order

cc:

[REDACTED]

Date Mailed: 11/2/2011

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant 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 of the rehearing decision.