

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

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2011-52126 HHS

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 ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Service Worker (ASW), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Has the Department properly not re-issued the Appellant's Home Help Services (HHS) payment for ██████████?

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 is a Medicaid beneficiary who has been authorized for monthly HHS payments since at least ██████████. (Exhibit 1, pages 15-16)
2. The Appellant's enrolled HHS provider was ██████████ in ██████████ (Exhibit 1, pages 13, and 15-16)
3. The HHS payment for the month of ██████████ was made with ██████████ as the only HHS provider. (Exhibit 1, page 16)
4. During a six month periodic review, the Appellant reported there had been a change in her HHS provider. She reported that ██████████ and

- ██████████ had started working for her in ██████████. (Appellant Testimony)
5. ██████████ and ██████████ were enrolled as HHS providers for the Appellant effective ██████████. (Exhibit 1, page 13)
 6. The Appellant cashed the ██████████ HHS payment warrant, mailed a portion to ██████████ and gave the remainder to ██████████. (Appellant Testimony)
 7. The Appellant sought to have part of the ██████████ HHS payment re-issued so that payments could be made to ██████████ and ██████████ ██████████ for the few days each of them worked in ██████████. (Appellant Testimony)
 8. On ██████████, the Department issued an overpayment letter to the Appellant for a portion of the ██████████ HHS payment. (Exhibit 2, page 1)
 9. The Department is unable to re-issue any payments for ██████████ until the overpayment has been returned. ██████████ and ██████████ Testimony)
 10. The Appellant has not been able to re-pay the overpayment amount.
 11. The Appellant requested a formal, administrative hearing on ██████████ ██████████. (Exhibit 1, pages 4-5)

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 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 physician and may be provided by individuals or by private or public agencies.

Adult Services Manual (ASM 363) 9-1-2008, page 18 of 5 addresses the issue of provider enrollment and payment authorization:

Provider Enrollment

Home help providers **must** be enrolled on the Model Payments System (MPS) prior to payment authorization. See the ASCAP user guide on the adult services home page for directions on enrolling a provider.

PAYMENT AUTHORIZATION

Payment Authorization System

Enter home help provider enrollments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS provider database. See the ASCAP user guide on the adult services home page.

HHS payments to providers must be:

- Authorized for a specific type of service, period of time and payment amount.
- Authorized to the person actually providing the service.
- Made payable jointly to the client and the provider.
- Any payment authorization that does **not** meet the above criteria must have the reason fully documented in the **Payments** module, exception rationale box, in **ASCAP**. The supervisor will document through the electronic approval process.

Adult Services Manual (ASM 363) 9-1-2008,
Pages 18-19 of 24

In the present case, the Appellant is seeking to have part of her HHS payment for [REDACTED] re-issued so that payment can be made to [REDACTED] and [REDACTED] for the few days they each worked in [REDACTED].

The Appellant's enrolled HHS provider was [REDACTED] in [REDACTED]. (Exhibit 1, pages 13, and 15-16) The HHS payment for the month of [REDACTED] was made with [REDACTED] as the only HHS provider. (Exhibit 1, page 16) The Appellant's testimony indicates that during a six month periodic review, the Appellant reported there had been a change in HHS provider, and that [REDACTED] and [REDACTED] had started working for her in [REDACTED]. The Appellant submitted the Home Help Services Statements of Employment for [REDACTED] and [REDACTED], but the signature and date portion was cut off of these photocopies. (Exhibit 2, pages 2-3) The Appellant testified that completed provider logs were submitted for the portions of [REDACTED] that [REDACTED] and [REDACTED] worked, though she could not recall the specific dates they worked during the [REDACTED], hearing proceedings.

Consistent with the Appellant's testimony, [REDACTED] and [REDACTED] were enrolled as HHS providers for the Appellant effective [REDACTED]. (Exhibit 1, page 13) However, it appears this change in providers was reported and made retroactively effective after the [REDACTED] HHS payment was issued on [REDACTED]. Accordingly, the [REDACTED] payment could not have been issued reflecting [REDACTED] or [REDACTED] as additional HHS providers for that month.

The Appellant testified she cashed the [REDACTED] warrant for her HHS payment, mailed a portion to [REDACTED] and gave the remainder to [REDACTED]. The Department issued an overpayment letter to the Appellant for a portion of the [REDACTED] HHS payment on [REDACTED]. (Exhibit 2, page 1) As the Department witnesses explained, they are unable to re-issue any payments for [REDACTED] until the overpayment has been returned.

The Appellant's testimony indicates that she has not been able to get the money back from [REDACTED] that she gave him from the [REDACTED] HHS payment and [REDACTED] has not received any payment for services she provided to the Appellant in [REDACTED]. The Appellant has not been able to re-pay the overpayment amount. The testimony further indicated that the Appellant has been trying to follow up with the Department regarding this issue, and there has been a change in the assigned Adult Services Worker for her case.

In order to ensure HHS payments are issued correctly, the Appellant should have reported any changes in HHS provider to the Department before they occurred, instead of waiting for her next six month review. Doing so would have allowed for enrollment of new providers to be completed before they began providing services and before any HHS payments were issued. Alternatively, if the Appellant had returned the warrant for [REDACTED] HHS services to the Department, instead of cashing it, the Department could have re-issued the [REDACTED] payment reflecting the three HHS providers that month. However, the Appellant received and cashed the warrant for the full [REDACTED] HHS payment. It is unclear why she only paid two of the three persons that provided services that month with those funds. However, the Appellant can not expect the Department to re-issue a portion of the [REDACTED] payment without reimbursement, as that would result in a duplicate HHS payment for that portion of [REDACTED]. The Department has already paid for the full authorization of the Appellant's HHS services for [REDACTED], and has not received any re-payment that would allow for a re-issuance of a portion of the Appellant's HHS payment for [REDACTED] to the additional HHS providers.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly not re-issued the Appellant's Home Help Services (HHS) payment for [REDACTED].

[REDACTED]
Docket No. 2011-52126 HHS
Decision and Order

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 11/22/2011

***** 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.