

**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:

[REDACTED]

Appellant

\_\_\_\_\_ /

Docket No. 2011-13494 AFCR

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge 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 [REDACTED]. [REDACTED], appeared on her own behalf. The Department was represented by [REDACTED]. The hearing record was left open through [REDACTED] for the Appellant to submit additional documentation. No documentation was received from the Appellant.

**ISSUE**

Did the Department properly pursue recoupment against the Appellant for payments issued for the period of [REDACTED] through [REDACTED]?

**FINDINGS OF FACT**

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

- 1) [REDACTED] was the enrolled AFC provider of services for the specified Medicaid beneficiary in [REDACTED]. (Exhibit 1, page 8)
- 2) The specified Medicaid beneficiary did not reside in [REDACTED] from [REDACTED] through [REDACTED]. (Exhibit 1, page 7)
- 3) On [REDACTED], Warrant number [REDACTED] was issued, which

████████████████████  
**Docket No. 2011-13494 AFCR**  
**Hearing Decision & Order**

included payment of ██████████ for the Medicaid beneficiary for services rendered for ██████████ through ██████████. (Exhibit 1, pages 4 and 9)

- 4) On ██████████, Warrant number ██████████ was issued, which included payment of ██████████ for the Medicaid beneficiary for services rendered for the month of ██████████. (Exhibit 1, pages 4 and 9)
- 5) On ██████████, the Department issued a letter to the Appellant requesting repayment of ██████████ to the Adult Foster Care Program because of the overpayment for ██████████ services for the specified Medicaid beneficiary. (Exhibit 1, page 4)
- 6) On ██████████, the Department issued a certified letter to the Appellant requesting repayment of ██████████ to the Adult Foster Care Program because of the overpayment. (Exhibit 1, pages 2 and 6)
- 7) On ██████████, correspondence from the Appellant was received and considered a Hearing Request contesting the recoupment action. (Exhibit 1, pages 2-4)
- 8) On ██████████, the Department pulled warrant number ██████████ for ██████████ and posed a payment of ██████████. A residual warrant was to be re-written for ██████████. The debt was considered paid in full. (Exhibit 1, page 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 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.

**Note:** Two party checks used in independent living services (ILS) are always to be viewed as client payments and therefore any overpayments involving a two party check are to be treated as client overpayment.

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.

When willful overpayments of \$500.00 or more occur, an DHS- 834, Fraud Investigation Request, is completed and sent to the Office of Inspector General. **Note:** See PAM Items 700 - 720.

No recoupment action is taken on cases that are referred for investigation while the investigation is being conducted.

Willful overpayments of \$499.00 or less are treated as non-willful client error, unless the policy of the local county prosecutor dictates otherwise. **Note:** See PAM Items 700 - 720 for investigation of alleged fraud.

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.

All instances of non-willful client error or willful client error of \$499 or less, will be recouped. No fraud referral is necessary.

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.

**Note:** Local offices do not need to make a determination of whether the overpayment is willful or non-willful. The Reconciliation and Recoupment Section of the Bureau of Accounting will be responsible for referrals to the OIG.

3. Administrative overpayments:

a. A computer or mechanical process may fail to generate the proper amount of payment to the client or the provider and an overpayment may occur. The department will recoup the overpayment from the provider or client, depending on who was overpaid.

b. Specialist error may cause **authorization** of more service than the client is entitled to receive. The authorization will cause the provider to provide, in good faith, these services. In these instances there will be no recoupment.

However, in situations where specialist error causes either clients or providers to receive more payment than entitled to **without** the provision of the extra service, recoupment shall take place.

4. Hearing related overpayments: When a client makes a timely request for a hearing, the proposed negative action is delayed until the hearing decision is issued, the request is withdrawn or the client fails to

**Docket No. 2011-13494 AFCR  
Hearing Decision & Order**

show. If the decision upholds the department; the client withdraws; or the client fails to appear at the hearing the overpayment caused by the suspense period is to be recouped.

SRM 181 6-1-2007, Pages 1-3 of  
4. (Exhibit 1, pages 10-12)

In the present case, the Department issued overpayments to the Appellant for services to the specified Medicaid beneficiary for the period of [REDACTED] through [REDACTED], because the specified Medicaid beneficiary had moved out of the Appellant AFC home. The overpayment was reported to the Department of Human Services by the Appellant on [REDACTED]. (Exhibit 1, page 7) Accordingly, the Department issued a DHS 567 letter to the Appellant on [REDACTED], requesting repayment of [REDACTED] to the Adult Foster Care Program because of the overpayment for [REDACTED] services. (Exhibit 1, page 4) A certified letter requesting repayment was also issued on [REDACTED]. (Exhibit 1, pages 2 and 6) Under the above cited Department policy, the Department properly sought recoupment of the overpayment.

The Appellant did not contest that she received an overpayment for the services rendered to the specified Medicaid beneficiary for the period of [REDACTED] through [REDACTED]. Rather, the Appellant testified that she had already paid the over-issuance balance. The payment in full of this debt is documented in the Department's exhibits. Specifically a [REDACTED] note states "Pulled warrant [REDACTED] on [REDACTED] and posted a payment of [REDACTED]. Gave to [REDACTED] to rewrite a residual warrant in ASAP for [REDACTED]. Debt paid in full." (Exhibit 1, page 5)

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. The evidence documents overpayments for services to the specified Medicaid beneficiary for the period of [REDACTED] through [REDACTED] totaling [REDACTED]. However, the evidence indicates this debt has been paid in full. Accordingly, there is no outstanding overissuance balance.

[REDACTED]  
Docket No. 2011-13494 AFCR  
Hearing Decision & Order

**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 [REDACTED] for [REDACTED], which has already been paid in full.

**IT IS THEREFORE ORDERED** that:

The Department's decision in seeking recoupment is **AFFIRMED**. Since the overpayment amount of [REDACTED] has been paid in full, there is no outstanding balance from this overissuance.

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

cc: [REDACTED]

Date Mailed: 5/31/2011

**\*\*\* 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.