

**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:

Docket No. 2012-58780 HHR

██████████,

Appellant,

_____ /

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

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services for payments for the month of ██████████?

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 provided Home Help Services to a Medicaid beneficiary, ██████████. (Exhibit 1, pages 5a, 10-11; Exhibit 2).
2. On ██████████, the Department issued warrant number ██████████ to the Appellant for \$ ██████████ for ██████████ Home Help Services for the month of ██████████. (Exhibit 1, page 6b; Exhibit 2, pages 1-2).
3. On ██████████, ██████████ and a proposed new HHS provider went to the local Department of Human Services office. The new HHS provider was enrolled and a start date of ██████████ was reported. ██████████ told the ASW the Appellant had not been working for him during the time since his new HHS provider started. (ASW Testimony).

4. On [REDACTED], the ASW called [REDACTED] and confirmed the [REDACTED] start/stop date for the change in his HHS provider. (ASW Testimony).
5. On [REDACTED], the ASW issued a letter to the Appellant indicating there had been an overpayment of \$ [REDACTED] for the time period of [REDACTED], specifically for the warrant issued [REDACTED]. The letter indicated the reason for the overpayment was personal care services were not provided. (Exhibit 1, pages 6a).
6. On [REDACTED], the Department of Community Health issued a certified letter to the Appellant requesting repayment of \$ [REDACTED] to the Home Help Program. (Exhibit 1, page 6c).
7. On [REDACTED], the Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit 1, pages 4-5).
8. On [REDACTED], the Department of Community Health issued a Final Notice to the Appellant requesting repayment of [REDACTED] to the Home Help Program. (Exhibit 1, page 7).

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.

Adult Services Manual (ASM) 165, 11-1-2011, addresses the issue of recoupment:

GENERAL POLICY

The department is responsible for correctly determining accurate payment for services. When payments are made in an amount greater than allowed under department policy, an overpayment occurs.

When an overpayment is discovered, corrective actions must be taken to prevent further overpayment and to recoup the overpayment amount. The normal ten business day notice period must be provided for any negative action to a client's services

payment. An entry must be made in the case narrative documenting:

- The overpayment.
- The cause of the overpayment.
- Action(s) taken to prevent further overpayment.
- Action(s) taken to initiate the recoupment of the overpayment.

FACTORS FOR OVERPAYMENTS

Four factors may generate overpayments:

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

Appropriate action must be taken when any of these factors occur.

Provider Errors

Service providers are responsible for correct billing procedures. Providers must only bill for services that have been authorized by the adult services specialist **and** that the provider has already delivered to the client.

Note: Applicable for home help agency providers and cases with multiple individual providers where hours may vary from month to month.

Providers are responsible for refunding overpayments resulting from an inaccurate submission of hours. Failure to bill correctly or refund an overpayment is a provider error.

Example: Provider error occurs when the provider bills for, and receives payment for services that were not authorized by the specialist or for services which were never provided to the client.

On [REDACTED], the Department issued warrant number [REDACTED] for \$ [REDACTED] for [REDACTED] Home Help Services for the month of [REDACTED]. This was a single party check, which was cashed by the Appellant. (Exhibit 1, page 6b; Exhibit 2, pages 1-2; ASW Testimony).

In his testimony, the Appellant acknowledged that he did not provide HHS to [REDACTED] in [REDACTED]. The Appellant took on full time ministry at the congregation. However, he was still taking [REDACTED] to appointments. [REDACTED] told the Appellant he could keep some of the money for the [REDACTED] HHS services as repayment for the time he was [REDACTED], including charges for phone calls. The Appellant stated [REDACTED] got part of the check too. (Appellant Testimony).

However, the services described by the Appellant are not services included in the HHS program. Transportation, including medical transportation assistance, is not covered in the HHS program. See Adult Services Manual (ASM) 101, 11-1-2011. Nor can HHS payments be used to compensate for when a Medicaid beneficiary was [REDACTED], including any phone charges.

The above cited policy specifically addresses recoupment of payment for services that were not provided. It was uncontested that the Appellant did not provide HHS to [REDACTED] in [REDACTED].

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 of the payment for Home Help Services for the month of [REDACTED], totaling [REDACTED].

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 \$ [REDACTED].

/s/ _____
Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Baldwin, Gilbert
Docket No. 2012-58780 HHR
Decision and Order

cc:



Date Mailed: November 1, 2012

***** 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. 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.