

**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) 373-4147

IN THE MATTER OF:

Docket No. 2013-17050 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 her own behalf. ██████████, Housing Outreach Specialist, ██████████, was present as a witness for the Appellant. ██████████ Appeals Review Officer, represented the Department. From the Department of Community Health, ██████████, Manager Medicaid Collections Unit, appeared as a witness. From the Department of Human Services, ██████████, Adult Services Worker ("ASW"), ██████████, ASW, ██████████ ASW, and ██████████ Services Supervisor, appeared as witnesses.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services payments for the time period of ██████████, through ██████████
██████████

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 (HHS) to a Medicaid beneficiary. (Uncontested)
2. On ██████████ the Department issued an Advance Negative Action Notice indicating the HHS payments for the Medicaid beneficiary would terminate effective ██████████ (Exhibit 2, page 2)

[REDACTED]

3. On [REDACTED], a hearing request was filed contesting the termination. (Exhibit 2, page 2)
4. While the appeal was pending, the Department suspended the proposed termination and the HHS payments continued. (Uncontested)
5. On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the time period of [REDACTED] through [REDACTED]. (Exhibit 3)
6. On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the month of [REDACTED] (Exhibit 3)
7. On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the month of [REDACTED]. (Exhibit 3)
8. On [REDACTED] a hearing was held regarding the termination of HHS Payments. (Exhibit 2, page 1)
9. On [REDACTED], a Decision and Order was issued affirming the Department's determination to terminate the HHS payments. (Exhibit 2)
10. On [REDACTED], ASW [REDACTED] issued letters to the Appellant indicating there had been overpayments in the HHS case for the time period of [REDACTED] through [REDACTED] totaling [REDACTED] specifically for warrants issued between [REDACTED] and [REDACTED]. The letter indicated the reason for the overpayment was the hearing action upheld and affirmed. (Exhibit 1, pages 7-10)
11. On [REDACTED] the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the time period of [REDACTED] through [REDACTED] (Exhibit 3)
12. 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 6)
13. On [REDACTED], the Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, pages 3-4)



14. The Department of Community Health has reviewed the overpayment amount since the [REDACTED] certified letter was issued and determined the correct overpayment amount is [REDACTED]. (Manager Medicaid Collections Unit Testimony)

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.

Administrative Hearing Overpayments

When a client makes a timely request (90 days) for an administrative hearing regarding a negative action, the proposed negative action is delayed pending the outcome of the hearing.

Overpayments result when one of the following occur:

- The hearing request is withdrawn.
- The client fails to appear for the hearing.
- The Department's negative action is upheld.

When any of the above takes place, the specialist must begin the recoupment process for any overpayments that occurred after the effective date of the negative action.

ASM 165 11-1-2011,
Pages 1 and 3 of 6.

The issue in the present case is an administrative hearing related overpayment. The Appellant provided HHS to a Medicaid beneficiary. (Uncontested) On [REDACTED] the Department issued an Advance Negative Action Notice indicating the HHS payments for the Medicaid beneficiary would terminate effective [REDACTED] (Exhibit 2, page 2) On [REDACTED], a hearing request was filed contesting the termination. (Exhibit 2, page 2)

While the appeal was pending, the Department suspended the proposed termination and the HHS payments continued. (Uncontested) On [REDACTED] the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] 0 for HHS for the time period of [REDACTED] through [REDACTED] (Exhibit 3) On [REDACTED] the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the month of [REDACTED]. (Exhibit 3) On [REDACTED] the Department issued

[REDACTED]

warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the month of [REDACTED] (Exhibit 3) On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant for [REDACTED] for HHS for the time period of [REDACTED] through [REDACTED] (Exhibit 3)

On [REDACTED], a hearing was held regarding the termination of HHS Payments. (Exhibit 2, page 1) On [REDACTED] a Decision and Order was issued affirming the Department's determination to terminate the HHS payments. (Exhibit 2)

On [REDACTED], ASW [REDACTED] issued letters to the Appellant indicating there had been overpayments in the HHS case for the time period of [REDACTED] through [REDACTED] totaling [REDACTED], specifically for warrants issued between [REDACTED] and [REDACTED]. The letters indicated the reason for the overpayment was the hearing action upheld and affirmed. (Exhibit 1, pages 7-10) 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 6) The Department of Community Health subsequently reviewed the overpayment amount and determined the correct overpayment amount is [REDACTED]. (Manager Medicaid Collections Unit Testimony)

The Appellant testimony indicated she wanted to contest the determination to terminate her HHS, rather than the recoupment action itself. (Appellant Testimony) As discussed during the [REDACTED] telephone hearing proceedings, the scope of this hearing is limited to reviewing the recoupment determination.

The Department's policy specifically addresses recoupment of hearing related overpayments. The Department properly sought recoupment from the Appellant/Provider of [REDACTED] the HHS payments issued while the proposed [REDACTED] termination was suspended due to the pending appeal because the Department's determination was upheld. It appears the error in the recoupment amount listed in the certified letter was based on the amount of the full HHS payment issued for [REDACTED] services rather than just the services after the [REDACTED] effective date. The revised overpayment amount of [REDACTED] is consistent with the totals of the overpayment amounts in the [REDACTED] letters to the Appellant issued by ASW [REDACTED] and the payment authorization history showing the [REDACTED] payment was for services from [REDACTED] through [REDACTED] (Exhibit 1, pages 6-10; Exhibit 3)

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly sought recoupment of [REDACTED].

[REDACTED] R

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

***** 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.