

**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:

██████████,

Appellant,

Docket No. 2013-19883 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. She had no witnesses. The Department was represented by ██████████, Appeals Review Officer. Her witness was ██████████, ASW.

A late identified witness was the Appellant's daughter, ██████████.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services over-payments beginning ██████████ through ██████████ in the amount 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 received Home Help Services (HHS) from choreprovider ██████████. (Department's Exhibit A, p. 12)
- 2) The Appellant, a Medicaid-SSI beneficiary, is afflicted with lung cancer, brain cancer, thyroid cancer, HTN, acute fatigue, and ganglion cyst. (Department's Exhibit A, p. 7)
- 3) On ██████████ the choreprovider advised the Department that she had not been paid since ██████████. (See Testimony and Department's Exhibit A, at page 9)
- 4) The Appellant reported that she had not seen the choreprovider since ██████████. (Department's Exhibit A, page 9)

- 5) The Appellant said she cashes all checks and pays the provider – although the checks are in both names. (See Testimony and Department’s Exhibit A, pp. 2 and 9)
- 6) On ██████████, the ASW issued a letter notifying the Appellant that an overpayment occurred for the time periods of ██████████ through ██████████ ██████████ in the amount of ██████████. (Department’s Exhibit A, throughout)
- 7) On ██████████, the Department of Community Health [Medicaid Collections Unit] issued a certified letter to the Appellant requesting that she repay ██████████ to the Home Help Program. (Department’s Exhibit A, pp. 2 and 6)
- 8) The Appellant’s appeal rights were explained further in the official notification of recoupment dated ██████████. (Department’s Exhibit A, page 6)
- 9) 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.

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.

ASM 165 11-1-2011, pp. 1 of 6.

In the present case, the Appellant testified that she had not seen the choreprovider since ██████████. She added that she had a problem with the choreprovider “lying and drinking.” She acknowledged that she cashed the checks and then paid the choreprovider.

The ASW testified that the Appellant admitted to her that she cashed the checks in question and stated that she had no money to repay. She was informed to contact Department to set up a payment plan.

The Appellant’s witness testified that her ██████████ made several calls to the worker reporting issues with the choreprovider’s drinking.

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 beneficiary 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 beneficiary/client.

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IT IS THEREFORE ORDERED that:

The Department's decision in seeking recoupment is **AFFIRMED**. The overpayment amount is [REDACTED].

/s/
Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 3/13/13

***** 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.