

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 2013-20562 HHP
Case No. [REDACTED]

[REDACTED]

Appellant,

_____ /

Issued and entered
This [REDACTED] day of [REDACTED]
by **William D. Bond, Administrative Law Judge**
Michigan Administrative Hearing System
for the Department of Community Health

PROPOSAL FOR DECISION

This matter is before the Michigan Administrative Hearing System pursuant to Michigan Compiled Laws 400.1 *et seq.*, the Michigan Administrative Code 400.3401-400.3425, and the Michigan Compiled Laws 24.271 *et seq.*

After due notice, a hearing was held on [REDACTED], [REDACTED], the Appellant, appeared and testified on [REDACTED] own behalf. [REDACTED], [REDACTED] represented the Department. [REDACTED] for the Michigan Department of Community Health, and [REDACTED] County Department of Human Services (DHS), appeared as a witness for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant of an overpayment for Home Help Services for the time period from [REDACTED] to [REDACTED] totaling [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. The Appellant was an enrolled provider of HHS for beneficiary [REDACTED].
2. On [REDACTED], [REDACTED] held an administrative hearing relating to the beneficiary's eligibility for HHS. Judge Isiogu found that the Appellant

and the beneficiary were married since ██████████, and since the Appellant was able and available to provide for ██████ care, the beneficiary was found ineligible for HHS. Judge Isiogu's decision formed the basis for a recoupment in this case.

3. The Appellant acknowledged that he had been married to the beneficiary since ██████████. (Testimony).
4. On or about ██████████, the ASW issued a letter to the Appellant regarding the HHS case indicating there had been a total overpayment for the time period from ██████████ to ██████████ of ██████████. The letter indicated the reason for the overpayment was the provider and the beneficiary are married. (Exhibit A, pp. 6-7).
5. On ██████████ the Department of Community Health sent the Appellant a Final Notice informing ██████ of the overpayment and requesting a total repayment of ██████████ to the Home Help Program. (Exhibit A, pp. 2, 4 and testimony).
6. On ██████████, the Appellant's hearing request was received by the Michigan Administrative Hearing System. (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) 135, 11-1-2011, page 1 of 3, addresses the issue of provider selection for Home Help Services. This section states in pertinent part that Home Help Services cannot be paid to a spouse caring for a spouse.

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, page 1 of 6.

The Manager for the Medicaid Collections Unit for the Michigan Department of Community Health stated that this case concerned a recoupment of ██████████ from the Appellant in response to the prior decision issued by Judge Isiogu finding that the beneficiary and the Appellant provider were married, and that the Appellant was a responsible relative who was available to provide the services. The Manager further stated ██████ sent out an initial letter on ██████████ advising the Appellant of the amount of overpayment and a final notice was sent out on ██████████

The Appellant's ASW stated that on ██████████ when ██████ spoke with the Appellant and the beneficiary, the Appellant admitted that they were married, after ██████ advised them ██████ could check the records at the clerk's office. The ASW further stated ██████ sent the letter to the Appellant regarding the HHS overpayment on or about ██████████

Accordingly, on or about ██████████ the ASW issued a letter to the Appellant regarding the HHS case indicating there had been a total overpayment for the time period from ██████████ to ██████████ of ██████████. The letter indicated the reason for the overpayments was the provider and the beneficiary are married. On ██████████ ██████ the Department of Community Health sent the Appellant a Final Notice informing him of the overpayment and requesting a total repayment of ██████████ to the Home Help Program.

At the hearing, Appellant testified that [REDACTED] had been the beneficiary's caregiver since the beginning. [REDACTED] indicated [REDACTED] did not know that he could not care for [REDACTED] wife and receive the HHS money until the ASW came out and did the reassessment on [REDACTED]. The Appellant acknowledged that he and the beneficiary had been married since [REDACTED].

Based upon a preponderance of the evidence submitted in this case, I find that the Appellant and the beneficiary had been married since [REDACTED]. The policy contained in ASM 135 states that Home Help Services cannot be paid to a spouse caring for a spouse. There is no exception to this policy. Accordingly, the Department was correct in its decision to seek recoupment for the HHS payments made to the Appellant commencing with the warrant issued on [REDACTED] through the warrant issued on [REDACTED], for a total amount of overpayment of [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 of the overpayment for Home Help Services for the time period from [REDACTED] to [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.

IT IS THEREFORE PROPOSED THAT:

The Administrative Law Judge, based on the above findings of fact and conclusions of law, RECOMMENDS that the Department's decision seeking recoupment be **AFFIRMED**. The overpayment amount is [REDACTED].

EXCEPTIONS

Any party may, within ten (10) days from the date of mailing this decision, file exceptions with the Michigan Administrative Hearing System for the Department of Community Health, P.O. Box 30695, 611 W. Ottawa, 2nd Floor, Lansing, Michigan 48909. Exceptions shall be served on all parties.

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]

Docket No. 2013-20562 HHP
Proposal for Decision

cc:

[REDACTED]

Date Mailed: _____