

**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. 2013-6669 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. ██████████, Appeals Review Officer, represented the Department. ██████████, Accounting Technician, Medicaid Collections Unit, appeared as a witness for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant for the September 15, 2011 warrant for Home Help Services ("HHS") payment?

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 a Medicaid beneficiary who received HHS.
2. On ██████████, the Department issued warrant number ██████████ to the Appellant and her enrolled HHS provider, ██████████, for \$ ██████████. (Exhibit 1, pages 4; Exhibit 2, pages 1-2)
3. Only the Appellant signed the back of warrant number ██████████. (Exhibit 2, page 2)
4. On ██████████, the Appellant's HHS provider called the local department of Human Services Office and spoke with a supervisor. The HHS provider reported she did not get paid for the last time she worked for the Appellant and indicated she quit on ██████████. (Exhibit 2, page 3)
5. On ██████████, the Appellant's HHS provider called the local

department of Human Services Office and spoke with a supervisor. The HHS provider reported that 5 checks had been issued on ██████████ ██████████ for back payment, the Appellant made her pay \$ ██████████ out of 4 checks to get paid any money. Further, the HHS provider stated only the Appellant signed the 5th check. The Supervisor noted she would instruct the worker to request copies of the signed check to confirm there was a check not signed by the provider. (Exhibit 2, page 3)

6. On ██████████, the Department of Human Services worker issued a letter to the Appellant regarding the HHS case indicating there had been an overpayment of \$ ██████████ warrant ██████████. The letter indicated the reason for the overpayment was the Appellant cashed the check and did not pay the provider. (Exhibit 1, page 4)
7. On ██████████, ██████████, and ██████████, the Department of Community Health issued certified letters to the Appellant requesting repayment of \$ ██████████ to the Home Help Program. (Exhibit 1, pages 5-7)
8. On ██████████, the Appellant's hearing request was received by the Michigan Administrative Hearing System.

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,
Pages 1 of 6.

On ██████████, the Department issued warrant number ██████████ for \$██████████ for the Appellant's HHS case. This was a dual party check issued to both the Appellant and the HHS provider, but was only signed by the Appellant. (Exhibit 2, pages 1-2) This is consistent with the notes of the Supervisor at the local Department of Human Services office regarding her telephone conversations with the Appellant's HHS provider. On ██████████, the Appellant's HHS provider told the Supervisor she did not get paid for the last time she worked for the Appellant and indicated she quit on ██████████. (Exhibit 2, page 3) On ██████████, the Appellant's HHS provider told the Supervisor that 5 checks had been issued on ██████████ for back payment, the Appellant made her pay \$██████████ out of 4 checks to get paid any money. Further, the HHS provider stated only the Appellant signed the 5th check. The Supervisor noted she would instruct the worker to request copies of the signed check to confirm there was a check not signed by the provider. (Exhibit 2, page 3)

Accordingly, On ██████████, the worker at the local Department of Human Services office issued a letter to the Appellant regarding the HHS case indicating there had been an overpayment of \$██████████ for warrant ██████████. The letter indicated the reason for the overpayment was the Appellant cashed the check and did not pay the provider. (Exhibit 1, page 4) On ██████████, ██████████, and ██████████, the Department of Community Health issued certified letters to the Appellant requesting repayment of \$██████████ to the Home Help Program. (Exhibit 1, pages 5-7)

In the hearing request, the Appellant wrote "we both cashed the \$ [REDACTED] check." (Request for Hearing) The Appellant initially testified that her nephew picked up the HHS provider that day, and they all went to the store together. The Appellant specifically testified both she and the HHS provider signed the check and the HHS provider got her money. The Appellant also initially testified all of the money went to the HHS provider and she did not keep part of it. (Appellant Testimony) It was only after this ALJ told the Appellant that the copy of the cashed check showed only the Appellant's signature, that the Appellant testified remembered she had a fight in the store with the HHS provider, which led to only the Appellant signing the check. The Appellant then further explained that she kept some portions of the HHS checks because she had lent the HHS provider money. (Appellant Testimony)

The Appellant's testimony can not be found fully credible, particularly because her story changed once she was told the copy of the cashed check only had her signature on it. The documentary evidence supports the Department's determination to recoup the HHS payment for warrant number 244931214 because the HHS provider reported she was not paid and only the Appellant signed this check.

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 payment for Home Help Services from warrant [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 ORDERED that:

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

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

cc: [REDACTED]

Date Mailed: 1/15/2013

***** 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.