

**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. 2013-17239 HHR
Case No. ██████████

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), Kalamazoo County Department of Human Services (DHS), appeared as a witness for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant for the ██████████, ██████████ and the ██████████ warrants 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 his enrolled HHS provider, ██████████, for ██████████ for the time period of ██████████. (Exhibit 1, pp. 2, 24-25).
3. Only the Appellant signed the back of warrant number ██████████. (Exhibit 1, p. 25).
4. On ██████████, the Department issued warrant number ██████████ to the Appellant and his enrolled HHS provider, ██████████, for ██████████. (Exhibit 1, pp. 2, 22-23)
5. The back of warrant number ██████████ contains signatures purporting to

be from the Appellant and his provider, but they do not match the known signatures of the Appellant and his provider. (Exhibit 1, p. 27 and testimony).

6. On [REDACTED], the Appellant's ASW received an email from the provider's DHS case worker [REDACTED], FIS, indicating that the Appellant's provider claimed she had not done chores for the Appellant since [REDACTED]. (Exhibit 1, p. 19).
7. On [REDACTED], the Appellant's ASW contacted the Appellant concerning the email from the provider's DHS worker. Appellant denied that his provider had stopped working for him. Appellant then called this ASW back after speaking with the provider and he indicated that his provider told him she needed to stop working as of [REDACTED], because she was getting her own DHS case. (Exhibit 1, p. 14 and testimony).
8. On [REDACTED], Appellant's ASW again contacted the Appellant to inquire about the warrants in question. The Appellant stated he had his [REDACTED] pose as him and sign and cash the [REDACTED] warrant. Appellant indicated he did not know who signed (forged) the provider's signature on the [REDACTED] warrant. As for the [REDACTED] warrant, Appellant indicated he was told (by his former DHS case workers) he could sign and cash the check on his own and then give the money to his provider. (Exhibit 1, pp. 16 and testimony).
9. On [REDACTED], the ASW issued letters to the Appellant regarding the HHS case indicating there had been an overpayment of [REDACTED] on warrant [REDACTED] and [REDACTED] on warrant [REDACTED]. The letters indicated the reason for the overpayments was fraudulently signed warrants. (Exhibit 1, pp. 32-33).
10. On [REDACTED], and [REDACTED], the Department of Community Health issued certified letters to the Appellant requesting a total repayment of [REDACTED] to the Home Help Program. (Exhibit 1, pp. 30-31)
11. On [REDACTED], 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) 140, 11-1-2011, page 1 of 3, addresses the issue of authorized payments for Adult Services. This section states in pertinent part that Home Help Services payments to providers must be made payable jointly to the client and the provider. As evidenced by the warrants issued in this case, they are issued jointly and must be endorsed by both the client and provider before they can be cashed. Adult Services Manual (ASM) 135, 11-1-2011, page 1 of 7, makes it clear that the Home Help Services is a benefit to the client and earnings for the provider.

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.

The Appellant's ASW stated on [REDACTED] she received an email from the provider's DHS case worker [REDACTED], FIS, indicating the Appellant's provider had claimed that she had not done chores for the Appellant since [REDACTED]. The Appellant's ASW stated she then contacted the Appellant concerning the email from the provider's DHS worker. She stated the Appellant denied that his provider had stopped working for him. Appellant then called the ASW back after speaking with the provider and he indicated his provider had told him she needed to stop working as of [REDACTED], because she was getting her own DHS case.

The Appellant's ASW further stated on [REDACTED] she again contacted the Appellant to inquire about the warrants in question. She stated the Appellant told her that he had his [REDACTED] pose as him and sign and cash the [REDACTED] warrant. The Appellant indicated he did not know who signed (forged) the provider's signature on the [REDACTED] warrant. The ASW stated that as for the [REDACTED] warrant, Appellant indicated he was told he could sign and cash the check on his own and then give the money to his provider.

Accordingly, on [REDACTED], the ASW issued letters to the Appellant regarding the HHS case indicating there had been overpayments of [REDACTED] on warrant [REDACTED] and [REDACTED] on warrant [REDACTED]. The letters indicated the reason for the overpayments was fraudulently signed warrants. On [REDACTED], and [REDACTED], the Department of Community Health issued certified letters to the Appellant requesting repayment of [REDACTED]6 to the Home Help Program.

At the hearing, Appellant testified his ASW told him she had received a letter from the provider indicating that she had stopped working for him as of [REDACTED]. Appellant stated this matter was delayed because he had requested to see such a letter. The ASW responded, however, that she did not receive a letter; rather she received an email from the provider's DHS worker, which was included in Exhibit A, (see Exhibit A, p.19). The Appellant submitted a letter at the hearing dated [REDACTED], the day before the hearing, which was allegedly signed by the provider. The letter states in part that the former provider was the Appellant's chore provider up until [REDACTED].

Based upon a preponderance of the credible evidence submitted in this case, I find that the two state warrants in question were fraudulently cashed and there is no showing that the Appellant's former provider was ever paid for, or performed any home help services which would have entitled her to these payments. Appellant's own statements establish that he personally cashed the [REDACTED] warrant, and that he directed his [REDACTED] to pose as him and cash the [REDACTED] warrant.

The [REDACTED] warrant, was issued jointly to the Appellant and his provider, and it was clearly improper for him to personally cash the warrant, especially without obtaining the provider's signature. The Appellant admitted that he directed his [REDACTED] to cash the [REDACTED] warrant, and there is no question that the two signatures on the back of the warrant are not genuine. Thus, there is overwhelming evidence that both warrants were fraudulently cashed by or at the direction of the Appellant.

Finally, no reliable evidence or testimony was presented to show that the money from the warrants was ever given to the former provider, or that she actually performed home help services which would have entitled her to the payments. The initial statements that she made to her DHS worker would suggest that she did not provide any such services. Furthermore, any statements attributed to her after the Appellant allegedly spoke to her on [REDACTED] are of questionable validity. As is the letter submitted by the Appellant on the day of the hearing. The letter was not even written until the day before the hearing, and it conflicts with the former provider's earlier statements as to when she stopped working for the Appellant. In any event, the key question in this case is whether the warrants in question were fraudulently cashed by or at the direction of the Appellant, and I find that they were.

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 payments for Home Help Services from [REDACTED] and [REDACTED]1 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].

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

cc: Jeffrey Bloodworth
Allison Pool
Susan Yontz
Michelle McGuire

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. 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.