

**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. 2013-35628 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. ██████████ Adult Services Worker ("ASW"), and ██████████ Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services for payments for the months of ██████████ and ██████████

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 is a Medicaid beneficiary and was authorized for Home Help Services payments.
2. On ██████████ the Department issued warrant number ██████████ to the Appellant and her enrolled HHS provider for ██████████ for Home Help Services for the month of ██████████ (Exhibit 2, pages 8 and 15-16)
3. On ██████████ the Department issued warrant number ██████████ to the Appellant and her enrolled HHS provider for ██████████ for Home Help Services for the month of ██████████ (Exhibit 2, pages 8 and 15-16)
4. The Appellant cashed the warrants for the ██████████ and ██████████ Home Help Services payments. (Appellant Testimony; Exhibit 2, page 12)

5. The Appellant's enrolled HHS provider did not actually provide the authorized Home Help Services for the Appellant. (Appellant Testimony; Exhibit 1; Exhibit 2, page 12)
6. On ██████████, the ASW issued a letter to the Appellant indicating there had been an overpayment of ██████████ for the time period of ██████████ to ██████████ specifically for the warrants issued ██████████ and ██████████. The letter indicated the reasons for the overpayment were the Home Help Services were not provided and client cashed check and kept the money. (Exhibit 2, pages 8-10)
7. On ██████████, the Department of Community Health issued a certified letter to the Appellant requesting repayment of ██████████ to the Home Help Program. This letter included notice of the Appellant's right to a hearing to contest the debt. (Exhibit 2, page 7)
8. 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) 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.

Client Errors

Client errors occur whenever information given to the department, by a client, is incorrect or incomplete. This error may be willful or non-willful.

Willful client overpayment

Willful client overpayment occurs when all of the following apply:

- A client reports inaccurate or incomplete information or fails to report information needed to make an accurate assessment of need for services.
- The client was clearly instructed regarding their reporting responsibilities to the Department (a signed DHS-390 is evidence of being clearly instructed).
- The client was physically and mentally capable of performing their reporting responsibilities.
- The client cannot provide a justifiable explanation for withholding or omitting pertinent information.

When willful overpayments of \$500.00 or more occur, a DHS-834, Fraud Investigation Request, is completed and

sent to the Office of Inspector General; see BAM Items 700 - 720.

No recoupment action is taken on cases that are referred to OIG for investigation, while the investigation is being conducted. The specialist must:

- Complete the DHS-566, Recoupment Letter for Home Help.
- Select **Other** under the reason for overpayment. Note that a fraud referral was made to the Office of Inspector General.
- Send a copy of the DHS-566, with a copy of the DHS-834, Fraud Investigation Request to the Michigan Department of Community Health Medicaid Collections unit at:

MDCH Bureau of Finance
Medicaid Collections Unit
Lewis Cass Building, 4th Floor
320 S. Walnut
Lansing, Michigan 48909

- **Do not** send a copy of the recoupment letter to the client or provider. MDCH will notify the client/provider after the fraud investigation is complete.

Note: When willful overpayments under \$500 occur, initiate recoupment process.

Non-Willful Client Overpayment

Non-willful client overpayments occur when either:

- The client is unable to understand and perform their reporting responsibilities to the department due to physical or mental impairment.
- The client has a justifiable explanation for not giving correct or full information.

All instances of non-willful client error must be recouped. No fraud referral is necessary.

On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant and her enrolled HHS provider for [REDACTED] for Home Help Services for the month of [REDACTED]. On [REDACTED], the Department issued warrant number [REDACTED] to the Appellant and her enrolled HHS provider for [REDACTED] for Home Help Services for the month of [REDACTED]. These checks were issued to both the Appellant and her enrolled HHS provider. (Exhibit 2, pages 8 and 15-16) The Appellant cashed the warrants for the [REDACTED] and [REDACTED] Home Help Services payments. (Appellant Testimony; Exhibit 1; Exhibit 2, page 12)

In her request for hearing and testimony, the Appellant described the problems she had with this enrolled provider. The Appellant was clear that she has since given the money to this enrolled provider. However, the Appellant stated that the enrolled HHS provider did not actually provide the authorized Home Help Services in [REDACTED] and [REDACTED] (Exhibit 1; Appellant Testimony)

It was uncontested that the enrolled HHS provider did not provide the authorized Home Help Services to the Appellant in [REDACTED] and [REDACTED]. Accordingly, the Department properly sought recoupment of the Home Help Services payments for those months from the Appellant, who cashed the warrants even though the services were not provided.

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 for the months of [REDACTED] and [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 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]

[REDACTED]
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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.