

**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. 2013-62383 HHR  
Case No. ██████████

**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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on her own behalf. ██████████, Regulation Agent, represented the Department.

**ISSUE**

Did the Department properly pursue recoupment against the Appellant for Home Help Services (HHS) for payments from ██████████ through ██████████?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant was provided HHS from ██████████ through ██████████. (Testimony)
2. From ██████████, through ██████████, the Appellant's HHS provider of record was ██████████. (Testimony)
3. From ██████████ through ██████████, ██████████ was incarcerated. (Testimony)
4. From ██████████ through ██████████, DHS issued warrant checks to ██████████ for performing HHS for the Appellant. (Testimony)
5. From ██████████ through ██████████, ██████████ cashed the HHS payments and claimed those earnings in her tax filings. (Testimony)
6. From ██████████ through ██████████, ██████████ did not perform HHS for the Appellant as she was incarcerated. (Testimony)

7. At no point in time from ██████████ through ██████████ did the Appellant inform the Department of any changes to her Provider. (Testimony)
8. At some point in time, the Department sent the Appellant a recoupment letter requesting repayment of the \$ ██████████ that was issued to ██████████ ██████████ for HHS allegedly performed during ██████████ period of incarceration. (Testimony)
9. On ██████████, the Appellant requested a hearing to dispute the recoupment.

### 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, addresses HHS providers. This policy provides in part:

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. Home help services are a benefit to the client and earnings for the provider. The determination of provider criteria is the responsibility of the adult services specialist.

An initial face-to-face interview must be completed with the home help provider. A face-to-face or phone contact must be made with the provider at the six month review or redetermination to verify services are being furnished.

All home help providers **must** be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment. Once a provider is enrolled, Bridges will assign the provider a seven digit identification number. The adult services specialist must allow 24 hours from the time of enrollment for Bridges to interface with ASCAP.

Federal regulations require that all providers of Medicaid covered services complete and sign a provider agreement. These agreement states providers will abide by Medicaid policies in providing services to program clients and in receiving payment from the program. In order to meet this requirement, the Michigan Department of Community Health (MDCH) developed the MSA-4678, Medical Assistance Home Help Provider Agreement.

**All** home help services providers must have a completed and signed MSA-4678 on file with the MDCH in order to receive payment. Providers are required to complete and sign the agreement only **once**.

ASM 135, 12-1-2013, pp. 1, 2, 4-6.

### **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.

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### **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.

The Department witness testified, the Appellant continued to be issued HHS warrants for services that were not rendered by the Provider and at no time did the Appellant notify the Department of any changes to her Provider. Additionally, the warrants continued to be cashed by the Provider all the while the Provider was incarcerated. The Department witness also testified the Appellant was informed of her need to inform the Department of any changes to her Provider. The Appellant did not dispute this.

The Appellant testified she had a head injury and couldn't clearly recall the events. And although the Appellant testified that she informed the Department of the Appellant's incarceration, the Appellant had no other evidence of this and could not explain why warrants continued to be issued to the incarcerated provider and then cashed.

The above cited policy specifically addresses recoupment of payment for services were there is no provider. It was uncontested that the Provider on record continued to cash warrant checks for HHS services that the Provider was not performing. As such, the Department was proper in seeking recoupment.

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/Provider of the payment for Home Help Services from ██████████ through ██████████, totaling \$ ██████████.

**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 Appellant Home Help Provider.

**IT IS THEREFORE ORDERED** that:

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

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Corey A. Arendt  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: April 21, 2014

Date Mailed: April 21, 2014

[REDACTED]  
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.