STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted]

Docket No.: 14-013753 HHR
Case No.: [redacted]

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 Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant appeared and offered testimony. [redacted], Appeals Review Manager, represented the Department. [redacted], Adult Services Worker (ASW) and [redacted], Finance Manager, MDCH Medicaid Collection Unit appeared as witnesses for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services (HHS) for payments from [redacted] through [redacted] in the amount of $[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. As of [redacted], the Appellant was approved for and receiving HHS with a monthly rate of $[redacted]. (Exhibit A, pp. 18, 21, 22; Testimony)

2. As of [redacted], [redacted] was the Appellant's Provider. (Exhibit A, p. 19; Testimony)

3. On or around [redacted], the Appellant moved down state and began living at the [redacted]. (Exhibit A, p. 19; Testimony)

4. [redacted] was the last day, [redacted] provided HHS for the Appellant. (Exhibit A, p. 19; Testimony)

5. On [redacted], the Department issued a warrant check to the Appellant in the amount of $[redacted] for HHS provided from [redacted] through [redacted]. (Exhibit A, p. 21; Testimony)

6. On [redacted], the Appellant left a voice message for the ASW. The voice message indicated the Appellant moved and last received HHS was around [redacted]. (Exhibit A, p. 19)

7. On [redacted], the ASW spoke with [redacted] told the ASW she last provided HHS for the Appellant on [redacted]. (Exhibit A, p. 19; Testimony)

8. On [redacted], the ASW sent the Appellant a letter. The letter discussed an overpayment of HHS benefits. (Exhibit A, pp. 7-9)

9. On [redacted], [redacted] sent the Appellant a letter. The letter discussed a collection action regarding the overpayment of HHS benefits. (Exhibit A, p. 6)

10. On [redacted], the Appellant requested a hearing to dispute the recoupment. (Exhibit A, pp. 4 - 6)

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:

> 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.

Adult Services Manual (ASM) 140, addresses Authorized Payments. This policy provides in part:

> Home help services payments to providers must be:
>
> - Authorized for a specific period of time and payment amount. The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
>
> - Authorized only to the person or agency actually providing the hands-on services.
>
> - Made payable jointly to the client and the provider.
>
> ASM 140, 5-1-2013, p. 1.
>
> **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.

Provider Errors

Service providers are responsible for correct billing procedures. Providers must only bill for services that have been authorized by the adult services specialist and that the provider has already delivered to the client.

> Providers are responsible for refunding overpayments resulting from an inaccurate submission of hours. Failure to bill correctly or refund an overpayment is a provider error.
>
> ASM 165, 5-1-2013, pp. 1-3.

The Department witness testified, the Appellant was issued HHS payments for services that were not rendered by the former provider and at no time did the Appellant or the former provider turned those payments back over to the Department.

The Appellant indicated she did move on or around [redacted], but did not offer any evidence to indicate that she continued to receive HHS from the date of moving up through [redacted].

The above cited policy specifically addresses recoupment of payment for services where there is client/provider/administrative error. Additionally, the policy indicates payments can only be authorized to the person/agency providing the services. In this case, payments were made for services that were not rendered ([redacted] through [redacted]). This is a perfect example of what is considered an over issuance of which the Department must recoup as the Department cannot authorize payment when services were not performed.

For the above reasons, I find, based on the above findings of fact and conclusions of law, that the Department properly sought recoupment from the Appellant of the payment for HHS from [redacted] through [redacted] in the amount of $[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].

Corey Arendt
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: [redacted]

Date Mailed: [redacted]

CA[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. The 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.