

**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. [REDACTED]

[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]. Appellant appeared on her own behalf. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Adult Services Worker (ASW), and [REDACTED], Financial Manager, appeared as witnesses for the Department.

**ISSUE**

Did the Department properly pursue recoupment against the Appellant for an overpayment of Home Help Services (HHS) 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. Appellant is an HHS service provider to a Medicaid beneficiary, [REDACTED] ([REDACTED]). (Exhibits 1, A, p 2; Testimony).
2. On [REDACTED], the ASW sent Appellant and [REDACTED] an Advance Action Notice indicating that Appellant had been overpaid for HHS services provided to [REDACTED] during periods when [REDACTED] was attending an adult day care center, the cost of which was paid through Medicaid's MI Choice Waiver Program. (Exhibit A, pp 7-9, 15; Testimony)
3. On [REDACTED], the Department issued a certified letter to Appellant informing her that an overpayment for HHS in the amount of \$ [REDACTED] had been made for Appellant's care while she was at the adult day care center. (Exhibit A, p 10; Testimony).
4. On [REDACTED], 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, 05-01-2013, 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.

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### 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.

**Note:** Applicable for home help agency providers and cases with multiple individual providers where hours may vary from month to month.

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.

**Example:** Provider error occurs when the provider bills for, and receives payment for services that were not authorized by the specialist or for services which were never provided to the client. (Emphasis added).

ASM 165 05-01-2013,  
Pages 1-3 of 7.

The ASW testified that when he went to reauthorize ██████ for HHS for the upcoming year, he noticed that ██████ was receiving some services through the MI Choice Waiver Program. Upon further investigation, the ASW discovered that ██████ was being sent to an adult day care center at times during the week, and that this was being paid for by Medicaid's MI Choice Wavier Program. Based on this discovery, on ██████████, the ASW sent Appellant and ██████ an Advance Action Notice indicating that Appellant had been overpaid for HHS services provided to ██████ during periods when ██████ was attending the adult day care center.

The Department's financial manager testified that the collection area of the Department also sent Appellant a separate collection notice regarding the recoupment in ██████████ and had recently offset the amount owed by removing the amount from a recent payment the Department had made to Appellant.

Appellant testified that the Department had, in fact, withheld the amount in question from a recent payment, even though she had timely requested a hearing and the hearing had not yet occurred. Appellant testified that the recoupment notice makes it sound like ██████ is actually living somewhere else during the week when, in reality, she only goes to the adult day care center from ██████████ to ██████████, twice per week. Appellant indicated that when the Waiver Agency came out and assessed Appellant for the MI Choice Waiver Program, and suggested the adult day care center, no-one ever told her that this would offset the care Appellant was providing to ██████ on a daily basis. Appellant testified that when she was notified in ██████████ that the HHS payment would be reduced for the time ██████ was at the adult day care center she agreed and understood,

but was never told that the Department would be going back to ██████████ to recoup payment. Appellant testified that she should not be responsible for the overpayment given that the Department let it go on for so long without informing her. Appellant also indicated that ██████ can no longer go to the adult day care center because of the offset the Department took from her most recent check.

The above cited policy specifically addresses recoupment of payment for services that were not provided to a client. It was uncontested here that ██████ attended an adult day care center, which was paid for through the MI Choice Waiver Program. Given that Appellant could not have provided services to Appellant for the times she was in the adult day care center, it was appropriate for the Department to seek recoupment. Appellant's argument that it would not be fair for the Department to seek recoupment because no-one told her that time paid for by another Medicaid program would be offset against her HHS hours is without merit. First, the undersigned does not have equitable authority to grant relief based on what might seem fair to Appellant. Second, the Department is obligated by law and policy to make sure that Medicaid funds are used appropriately and that Medicaid is not billed twice for the same services.

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 for Home Help Services totaling \$ ██████.

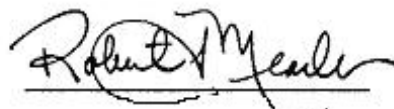
The Department should, however, coordinate its collection procedures with its recoupment procedures. It was understandable that Appellant did not respond separately to the collection notice sent by the Department within 10 days given that she had already filed a proper and timely appeal from the recoupment notice.

### **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.

**IT IS THEREFORE ORDERED** that:

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



Robert J. Meade  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

[REDACTED]  
Docket No. 14-006087 HHR  
Decision and Order

cc:

[REDACTED]

RJM

[REDACTED]

Date Signed:

[REDACTED]

Date Mailed:

[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.