

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████

Docket No. 14-007754-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, an in-person hearing was held on ██████████. Appellant personally appeared and testified.

██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Financial Manager with the DCH Collections United appeared as a witness. ██████████ and ██████████ appeared only by conference telephone. ██████████, Adult Services Worker for the Department, appeared in person and testified.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services payments for the time period of ██████████ through ██████████, totaling \$██████████?

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 received Home Help Services (HHS) as a Medicaid beneficiary. (Exhibit A; Testimony) Appellant is a ██████ year old male who is a beneficiary of the SSI program.
2. On ██████████, the Department issued a Negative Action Notice indicating that Appellant's HHS case will close effective ██████████. (Exhibit A.24)
3. On ██████████, a timely hearing request was filed contesting the termination. (Exhibit A.24)

4. While the appeal was pending, the Department suspended the proposed termination per the Appellant's request and the HHS payments continued. (Testimony)
5. On ██████, a hearing was held regarding the termination of HHS Payments. (Exhibit A.23)
6. On ██████, a Decision and Order was issued by ALJ ██████ affirming the Department's determination to terminate the HHS payments. (Exhibit A.27)
7. On ██████, the Department issued warrant number ██████ to Appellant for \$ ██████ for HHS for the time period of ██████ through ██████. (Exhibit A.8)
8. On ██████, the Department issued warrant number ██████ to Appellant for \$ ██████ for HHS for the time period of ██████ through ██████. (Exhibit A.8)
9. On ██████ and ██████, the Department of Community Health issued letters to Appellant requesting repayment of \$ ██████ to the Home Help Program. (Exhibit A.10-11)
10. On ██████ Appellant filed a hearing request which was scheduled by MAHS for an administrative hearing on ██████. Appellant failed to appear. Appellant filed a request to reinstate that was denied for lack of good cause by Supervisory ALJ ██████. (See Docket Nos. ██████; ██████)
11. On ██████, Appellant filed a Request for Hearing in the instant case to appeal the Department's recoupment action. (Exhibit A.5)

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.

Administrative Hearing Overpayments

When a client makes a timely request (90 days) for an administrative hearing regarding a negative action, the proposed negative action is delayed pending the outcome of the hearing.

Overpayments result when one of the following occur:

- The hearing request is withdrawn.
- The client fails to appear for the hearing.
- The Department's negative action is upheld.

When any of the above takes place, the specialist must begin the recoupment process for any overpayments that occurred after the effective date of the negative action.

ASM 165 11-1-2011,
Pages 1 and 3 of 6.

The issue in the present case is an administrative hearing related overpayment.

The ASW testified that she sent recoupment letters to Appellant after her decision that Appellant was no longer eligible for HHS was upheld following an administrative hearing. The ASW indicated that Appellant had contacted her supervisor when she stopped his HHS payments and asked that his payments be reinstated pending his appeal. The payments were reinstated pending the appeal. When ALJ ██████████ issued his decision upholding the Department's action, under federal and state law the Department was required to recoup payments made pending the outcome of the hearing. (Exhibits A.8-11)

Appellant argued at this administrative hearing that he has filed appeals that have yet to be resolved and thus, that there is no jurisdiction by this ALJ to rule on the recoupment action. A review of the MAHS data base shows two registration numbers for Appellant- ██████████ and ██████████. Both actions have reached final disposition; no further appeal may be made.

Appellant also argues that he reapplied and was re-opened, and, that clearly this is a case of worker error or prejudice. Testimony at hearing is that Appellant's HHS case was reopened ██████████. However, a patent review of the dates clearly shows that Appellant's case was not reopened to cover any period of time for which the Department is pursuing recoupment.

The Department's policy discussed above specifically addresses recoupment of hearing related overpayments. The Department properly sought recoupment from the Appellant of \$ ██████████, the HHS payments issued while the proposed ██████████ termination was suspended due to the pending appeal because the Department's determination was upheld.

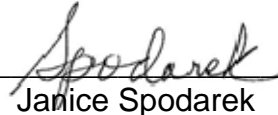
As noted above, the Department is under strict federal and state mandates to recoup any monies received requested by a client pending the outcome of a hearing decision upheld by the ALJ. This Administrative Law Judge, based on the above findings of fact and conclusions of law, must uphold that recoupment action as it is consistent with federal and state law, and, Department policy.

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**.



Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

JS [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [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.