

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909**

IN THE MATTER OF:

Docket No. - 14-010449 HHS

Case 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]. [REDACTED] appeared on her own behalf and offered testimony. [REDACTED], Appeals Review Officer, 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 Provider for Home Help Services (HHS) for payments from [REDACTED] through [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. From [REDACTED] through [REDACTED], the Appellant provided HHS to a client.
2. On or around [REDACTED], the Appellant was in an accident.
3. On [REDACTED], the Appellant stopped providing HHS to the client.
4. On [REDACTED] the Department issued a warrant to the Appellant for HHS covering the time period of [REDACTED] through [REDACTED]. (Exhibit A, p. 19; Testimony)
5. On [REDACTED], the Department issued a warrant to the Appellant for HHS covering the time period of [REDACTED] through [REDACTED]. (Exhibit A, p. 19; Testimony)

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6. On [REDACTED], the client left a message with the ASW. The message indicated the Appellant stopped working about 3 ½ months ago. (Exhibit A, p. 14)
7. On [REDACTED], the client spoke with the ASW. The client told the ASW the Appellant last worked on [REDACTED]. (Exhibit A, p. 14)
8. On [REDACTED], the ASW sent the Appellant overpayment letters. (Exhibit A, pp. 6, 7; Testimony)
9. On [REDACTED], [REDACTED] sent the Appellant an initial collection letter. (Exhibit A, p. 8; Testimony)
10. On [REDACTED], Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit A, p. 4).
11. On [REDACTED], [REDACTED] sent the Appellant a final collection letter. (Exhibit A, p. 9; Testimony)

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) 101, 12-1-2013, addresses HHS available to a client. This policy provides in part:

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness. [ASM 101, p. 1 of 4, emphasis added].

ASM 135, 12-1-2013, addresses Home Help Providers and their responsibilities under the HHS program. This policy states in part:

- The client and provider are responsible for notifying the adult services specialist within **10 business days** of any change in providers or hours of care.

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- The provider and/or client is responsible for notifying the adult services specialist within **10 business days** if the client is hospitalized.
- **Note:** Home help services **cannot** be paid the day a client is admitted into the hospital but **can** be paid the day of discharge. [ASM 135, p. 3 of 9].

ASM 125 12-1-2013 covers the MI-Choice Waiver Program:

The MI Choice waiver program provides home and community-based services for individuals:

- Aged (65 and over) and disabled persons who meet the MA nursing facility level of care.
- Who require at least one MI Choice service on a continual basis.
- Meet Medicaid financial eligibility criteria; see BEM 106.

The Michigan Department of Community Health, Home and Community Based Services Section, administers the waiver through contracts with organized health care delivery systems, commonly referred to as waiver agencies. For a list of the waiver agencies see **Exhibit I in BEM 106**.

MI Choice participants **cannot** receive services from both the **home help program** and the **waiver** as this is a duplication of Medicaid services. The level of care (LOC) code for the MI-Choice waiver is **22**.

ASM 165, 5-1-2013, 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.

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. [ASM 165 5-1-2013, pp. 1, 3].

The Department in this case alleges the Appellant was paid for services that were not rendered. The Department based their determination on statements provided to them by the client. The client did not participate in the hearing and the evidence relied upon were business records (narrative logs).

The Appellant on the other hand argued that she provided services up until April at which point in time she stopped providing services as her injuries that were sustained in the accident prevented her from continuing.

Based upon the evidence submitted, I have determined the narrative logs are most likely a more accurate portrayal of what happened. I based that decision on the fact the Appellant did not produce a compelling reason as to how she was able to continue providing services immediately after the accident only to then a month later succumb to her injuries and no

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longer be able to provide services.

The above cited policy specifically addresses recoupment of payment for services that were not provided. 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 [REDACTED] through [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 Appellant Home Help Provider.

IT IS THEREFORE ORDERED that:

The Department's decision in seeking recoupment is **AFFIRMED**. The overpayment amount was \$ [REDACTED]. The Appellant is responsible to the Department for an overpayment in the amount of \$ [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]

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****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.