

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

██████████,

Appellant,

_____ /

Docket No. 2014-34205 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 ██████████. Appearing on behalf of the Appellant was ██████████. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), and ██████████, 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 ██████████ through ██████████ and ██████████ 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 provided Home Help Services to a Medicaid beneficiary (MB), ██████████. (Exhibit A, pp. 6-8, 12; Testimony).
2. Prior to ██████████, the Appellant was notified by the Departments MSA-4676 that all changes must be reported to the Department within 10 days of the change. (Testimony)
3. From ██████████ through ██████████ and from ██████████ through ██████████, the MB was hospitalized. (Exhibit A, pp. 6, 12; Testimony)
4. From ██████████ through ██████████ and from ██████████ through ██████████, the MB's providers received HHS payments in the amount of \$ ██████████. (Exhibit A, pp. 6, 16; Testimony)

5. On [REDACTED], the Appellant notified the ASW that the MB was hospitalized in [REDACTED]. (Exhibit A, p. 12; Testimony)
6. On [REDACTED], the Appellant told the ASW that the MB was hospitalized from [REDACTED] through [REDACTED] and from [REDACTED] through [REDACTED]. (Exhibit A, p. 12; Testimony)
7. On [REDACTED], the Department sent a letter to the Appellant informing the Appellant of an overpayment of \$ [REDACTED] for the time period of [REDACTED] through [REDACTED] and from [REDACTED] through October 23, 2013. (Exhibit A, p. 6; Testimony)
8. On [REDACTED], the Department of Community Health sent a letter to the Appellant requesting repayment of \$ [REDACTED] to the Home Help Program. (Exhibit A, p. 5; Testimony).
9. On [REDACTED], Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit A, p. 4).

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].

Adult Services Manual (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.

- 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].

Adult Services Manual (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 ASW testified the client was hospitalized from ██████████ through ██████████ and from ██████████ through ██████████ and that the Provider received HHS payments covering the same time period.

The ASW indicated neither the provider nor client notified the Department of the client's hospitalization until after the HHS payments had already been made. The ASW also testified that the Provider and Client were informed of the applicable policy and reporting procedures via the MSA 4676.

The Finance Manager for MDCH's Medicaid Collection Unit testified she sent out an initial collection letter for the Department after the Appellant failed to make payment in response to the recoupment notification sent out by DHS.

The Appellant's Representative testified that client although hospitalized still required care during the hospitalization. The Appellant's Representative indicated they were needed to communicate the Client's needs to the hospital due to the Client being autistic.

HHS payments are not allocated for communication. HHS payments are only allocated for the ADL's of eating, toileting, bathing, grooming, dressing, transferring and mobility as well as the IADL's of medication, meal preparation, shopping, laundry and light housework.

Besides the task of communication, the Representative for the Appellant did not articulate any other tasks that were performed during the Client's stay in the hospital. However, even if the Representative did, policy does not allow for HHS services to be paid for when the Client is hospitalized.

The above cited policy specifically addresses recoupment of payment for services that were not provided because a client goes into the hospital or a nursing facility. 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

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Appellant/Provider of the payment for Home Help Services from [REDACTED] through [REDACTED] and 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 A. Arendt
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CAA [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.