

**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. 2014-34680 HHR

██████████

██████████

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, a hearing was held on ██████████. The Appellant appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW); and, ██████████ the Manager of the Department's Medicaid Collections Unit, appeared as witnesses for the Department.

**ISSUE**

Did the Department properly pursue recoupment against the Appellant for Home Help Services payments totaling \$1597.95?

**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 has received HHS since at least ██████████. (Exhibit A, p. 16).
2. On ██████████, the Appellant married ██████████. (Exhibit A, pp. 16, 27 and testimony).
3. As of ██████████, the Appellant and her husband were living together and the husband was acting as the Appellant's Provider. (Exhibit A, pp. 12, 16).
4. Between ██████████ and ██████████, the ASW discovered the Appellant's marriage. (Exhibit A, p. 16; and testimony).

5. On [REDACTED], the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective [REDACTED] because there was a responsible relative residing in the home with Appellant. (Exhibit A, pp. 5-7 and testimony).
6. On [REDACTED], the ASW issued a DHS 566 letter to Appellant indicating that an overpayment had occurred in the Home Help case in which Appellant was the beneficiary for the time period of [REDACTED] through [REDACTED]. The overpayment totaled [REDACTED] (Exhibit A, pp. 8-12).
7. On [REDACTED] issued an Initial Collection Notification to Appellant indicating that, as Appellant was previously informed, she owed the Adult Services Program [REDACTED]. The letter informed Appellant of her right to contest that debt and request a hearing. (Exhibit A, p. 13).
8. On [REDACTED] issued a Final Collection Notification to Appellant indicating that, as Appellant was previously informed, he owed the Adult Services Program [REDACTED] (Exhibit A, p. 14).
9. On [REDACTED], Appellant's Request for Hearing 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 165 (5-1-2013) (hereinafter "ASM 15") addresses the issue of recoupment of overpayments for HHS:

#### **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.

\* \* \*

### ***Non-Willful Client Overpayment***

Non-willful client overpayments occur when either:

- The client is unable to understand and perform their reporting responsibilities to the department due to physical or mental impairment
- The client has a justifiable explanation for not giving correct or full information.

All instances of non-willful client error must be recouped. No fraud referral is necessary. [ASM 165 pp. 1-3 of 7].

Adult Services Manual 135 (12-1-2013) (hereinafter "ASM 135") addresses the client's selection of home providers and states in pertinent part:

**PROVIDER SELECTION**

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. Home help services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the adult services specialist.

Home help services **cannot** be paid to:

- A spouse caring for a spouse or a parent caring for an unmarried child under 18 (responsible relative). [ASM 135 p. 1 of 9].

Based upon my review of the facts and evidence presented at the hearing, I find that the Appellant was married to her Provider on [REDACTED] and the Provider continued to provide HHS to the Appellant up until the time the Department took the action to close the Appellant's HHS case. According to the policy quoted above from the Adult Services Manual, the Appellant's husband could not be paid to provide home help services for the Appellant once they got married. The policy provides that all instances of overpayment, even if it results from non-willful client error, must be recouped. Accordingly, this Administrative Law Judge finds that, based on the above findings of fact and conclusions of law, the Department properly sought recoupment 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 is **AFFIRMED**. The overpayment amount is [REDACTED]

*William D Bond*

William D. Bond  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]  
Date Mailed: [REDACTED]

[REDACTED]  
Docket No. 2014-34680 HHR  
Decision and Order

WDB/db

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.