

**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:

██████████,

Appellant,

_____ /

Docket No. 2014-35795 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 ██████████. Appellant appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), and ██████████, 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 \$██████████?

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 a ██████ year old Medicaid beneficiary, born ██████████, who has been receiving HHS since ██████████. (Exhibits 1, A, p 6; Testimony).
2. On ██████████, the ASW met with Appellant and her provider in Appellant's home for an annual reassessment. During the reassessment, Appellant and provider reported that Appellant had been hospitalized from ██████████ through ██████████, from ██████████ through ██████████, and from ██████████ through ██████████. Appellant and her provider also reported that after being released from the hospital, Appellant was in a nursing home for 20 days. During the reassessment, the ASW informed Appellant and her provider that the Department would be seeking recoupment for HHS payments made while Appellant was in the hospital and nursing home. (Exhibit A, p 15; Testimony)

3. On ██████████, the Department issued a certified letter to Appellant informing her that an overpayment for HHS in the amount of \$██████████ had been made for Appellant's care while she was hospitalized, and that the Department was seeking recoupment of that amount. (Exhibit A, pp 9-10; Testimony).
4. On ██████████, 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.

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 05-01-2013,
Pages 1-3 of 6.

The ASW testified that on [REDACTED], she met with Appellant and her provider in Appellant's home for an annual reassessment. During the reassessment, Appellant and provider reported that Appellant had been hospitalized from [REDACTED] through [REDACTED], from [REDACTED] through [REDACTED], and from [REDACTED] through [REDACTED]. Appellant and her provider also reported that after being released from the hospital, Appellant was in a nursing home for 20 days. During the reassessment, the ASW informed Appellant and her provider that the Department would be seeking recoupment for HHS payments made while Appellant was in the hospital and nursing home. On [REDACTED], the ASW notice to Appellant that an overpayment for HHS in the amount of \$ [REDACTED] had been made for Appellant's care while Appellant was hospitalized.

The ASW testified that she had no notice from Appellant or the provider that Appellant had been hospitalized prior to the reassessment on [REDACTED]. The ASW indicated that Appellant had been receiving HHS since [REDACTED] and was familiar with the program's policies. The ASW indicated that Appellant was receiving \$ [REDACTED] per month

in HHS and that her provider had been paid the full amount for HHS while she was hospitalized.

Appellant testified she asked her ASW at the beginning of the year to make her HHS checks payable to both her and her son, who serves as her provider. Appellant indicated that she told her provider to tell the Department when she was hospitalized. Appellant also indicated that she believed the department had been deducting the overpayment from her monthly HHS checks. Appellant testified that if she did actually owe back the money, she would like to make payment arrangements with the Department.

The above cited policy specifically addresses recoupment of payment for services that were not provided because a client goes into a hospital or nursing facility. It was uncontested here that the Appellant was hospitalized from [REDACTED] through [REDACTED], from [REDACTED] through [REDACTED], and from [REDACTED] through [REDACTED] and was not receiving HHS services during that time period. As such, the Department was proper in seeking recoupment.

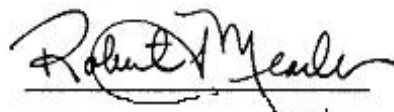
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly sought recoupment from the Appellant for Home Help Services totaling \$ [REDACTED].

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.

IT IS THEREFORE ORDERED that:

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



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

cc: [REDACTED]

[REDACTED]
Docket No. 2014-35795 HHR
Decision and Order

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.