

**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. 2014-605 HHR¹

██████████,

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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████ Appeals Review Officer, represented the Michigan Department of Community Health. ██████████ Adult Services Worker (ASW); ██████████, Adult Services Supervisor; and ██████████ the Manager of the Department's Medicaid Collections Unit, appeared as a witnesses for the Department.

ISSUE

Did the Department properly pursue recoupment against the Appellant for Home Help Services payments for the time period of ██████████ 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. The Appellant provided Home Help Services (HHS) to a Medicaid beneficiary until ██████████ when that beneficiary entered an Adult Foster Care home. (Testimony of Appellant; Testimony of ASW ██████████).
2. The Department was not informed at that time that the beneficiary had entered a foster care home or that HHS were no longer being provided. (Testimony of Appellant; Testimony of ASW ██████████).
3. Accordingly, the Department continued to issue payments to Appellant for HHS. (Testimony of Appellant; Testimony of ASW ██████████).

¹ This case was originally mis-coded as a PBH case. Subsequently, it was correctly identified as an HHR case and re-coded. The parties were informed of the change at the onset of the hearing and the change itself had no substantive effect on the hearing.

4. Appellant cashed all the checks sent by the Department. (Respondent's Exhibit A, page 16; Testimony of Appellant; Testimony of ASW ██████████).
5. In ██████████, ASW ██████████ unsuccessfully attempted to reassess Appellant's HHS. Due to her inability to do so, payments for HHS were suspended as of ██████████. (Respondent's Exhibit A, pages 11-12; Testimony of ASW ██████████).
6. The Department subsequently learned from the beneficiary's guardian and others that the beneficiary had entered a foster care home on ██████████. (Respondent's Exhibit A, pages 12-14; Testimony of ASW ██████████).
7. Appellant's case was then closed. (Respondent's Exhibit A, page 8; Testimony of ASW ██████████).
8. On ██████████, ASW ██████████ issued a letter to Appellant indicating that an overpayment had occurred in the Home Help case in which Appellant was a provider for the time period of ██████████ through ██████████. The overpayment totaled ██████████. (Respondent's Exhibit A, pages 5-6).
9. On ██████████ ██████████ issued a letter to Appellant indicating that, as Appellant was previously informed, he owed the Adult Services Program ██████████. (Respondent's Exhibit A, page 7).
10. That letter also informed Appellant of his right to contest that debt and request a hearing. (Respondent's Exhibit A, page 7).
11. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Respondent's Exhibit A, page 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 (11-1-2011), pages 1-2 of 6, 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.

The issue in the present case is an overpayment based on a provider error. Appellant only provided HHS to a Medicaid beneficiary until ██████████ but continued to be paid until ██████████. Moreover, Appellant continued to cash the checks sent by the Department despite the fact he had not been providing any HHS. After learning about the overpayment, the Department properly sent collection notices to Appellant, while also notifying him of his right to contest the debt and request an administrative hearing.

Appellant filed a request for hearing, but conceded during the hearing itself that he had been mistakenly paid for services he never provided and that he owed the Department the ██████████ it is seeking.

Appellant also requested that a payment arrangement be worked out and the Department's witness indicated a willingness to do so. However, as such an arrangement is outside the scope of this hearing, the parties also agreed to speak later.

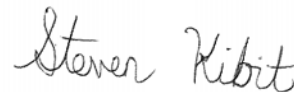
With respect to the subject of this hearing, this Administrative Law Judge finds that, based on the above findings of fact and conclusions of law, the Department properly sought recoupment of ██████████.

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**. The overpayment amount is ██████████



Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: ██████████

Date Mailed: ██████████

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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. 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.