

**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. 2013-67327 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 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 ██████████ Finance Manager, MDCH Medicaid Collection Unit appeared as witnesses for the Department.

**ISSUE**

Did the Department properly pursue recoupment against the Appellant for Home Help Services (HHS) for payments from ██████████ 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, Raymond Waire. (Exhibit A, p. 20 and testimony).
2. On ██████████, the Department informed Appellant that an overpayment for HHS in the amount of ██████████ had been made for Appellant's client's care from ██████████ through ██████████ because Appellant's client went into a facility. (Exhibit A, p. 6 and testimony).
3. On ██████████, the Department of Community Health issued a certified letter to Appellant requesting repayment of ██████████ to the Home Help Program. (Exhibit A, p. 7 and testimony).
4. On ██████████ Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit A, pp. 4-5).

## **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, 11-1-2011, 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, 11-1-2011, 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. 2 of 7].

Adult Services Manual (ASM) 165, 11-1-2011, 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.

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### **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 11-1-2011, pp. 1-3 of 6].

The ASW testified on ██████████, she sent notice to Appellant that an overpayment for HHS in the amount of ██████████ had been made for her client's care from ██████████ through ██████████ because the Appellant's client went into a facility. The ASW indicated that on ██████████ the Department issued a certified letter to Appellant requesting repayment of ██████████ to the Home Help Program.

The Finance Manager for MDCH's Medicaid Collection Unit testified she sent out an initial collection letter for the Department on ██████████ after the Appellant failed to make payment in response to the recoupment notification sent out by DHS. The Finance Manager stated the Department did receive a payment in the amount of ██████████ towards the overpayment owed by the Appellant that was offset in ██████████. The Finance Manager stated this leaves a balance owed by the Appellant to the Department of ██████████.

Appellant testified when her client went into the nursing facility, she believed he would be returning home so she continued tending to his home. Appellant indicated when she discovered in ██████████ that the client would not be returning home, she called and informed one of the client's former DHS workers that he was not going to be returning home. Appellant indicated she believed she was entitled to the checks she continued to receive because of the work she did for him in ██████████, because she had continued to care for Appellant's home, and the Department is always behind a month or so in making payments. Appellant acknowledged that she received HHS checks in ██████████ and ██████████. Appellant also testified the client went into the hospital about a week and a half before he was admitted to the nursing facility.

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. It was uncontested that the Appellant did not provide HHS to ██████████ from at least ██████████ through ██████████. 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 ██████████ through ██████████, totaling ██████████. After a payment of ██████████ by way of an offset, the Appellant is still responsible for a balance 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 Appellant Home Help Provider.

**IT IS THEREFORE ORDERED** that:

The Department's decision in seeking recoupment is **AFFIRMED**. The overpayment amount was [REDACTED], and after one payment by offset, Appellant is still responsible to the Department for an overpayment in the amount of [REDACTED]

*William D Bond*

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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. 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.