

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-013763
Issue No.: 2006
Case No.: ██████████
Hearing Date: January 21, 2015
County: OAKLAND-4 (N SAGINAW)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on January 21, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████ Regulation Agent, Office of Inspector General.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence.

ISSUE

Did Respondent receive an OI of Medical Assistance (MA) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of Medical Assistance benefits from the Department.
2. The Department alleges Respondent received an Overissuance of Medical Assistance benefits during the period September 9, 2013 through April 30, 2014 due to Respondent's error.

3. The Department alleges that the Respondent received concurrent medical assistance benefits from both the state of Michigan and the state of Kansas during the period of overissuance.
4. The Department alleges that Respondent received a [REDACTED] OI that is still due and owing to the Department.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

When the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance. AM 725, (7/1/14), pp.1.

An **overissuance** is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an overissuance is also the amount of benefits trafficked (traded or sold). BAM 700, (5/1/14) pp. 1.

Recoupment is a DHS action to identify and recover a benefit overissuance. BAM 700, pp.2.

Concurrent receipt of benefits means assistance received from **multiple** programs to cover a person's needs for the same time period. Certain restrictions apply, as specified in this item.

Benefit duplication means assistance received from the **same** (or same **type** of) program to cover a person's needs for the same month. For example, FIP from Michigan and similar benefits from another state's cash assistance program. As specified in the balance of this item, benefit duplication is prohibited **except** for MA and FAP in limited circumstances (see **MA Benefits** and **FAP Benefits** in this item). BEM 222 (7/1/13) pp.1.

A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, pp.6. In this case the Respondent never notified the Department that she was also

receiving MA benefits in Arizona for herself and her children as she was obligated to do. Thus based upon the facts presented, this overissuance is due to a Client error.

Additionally, in this case the Department seeks to recoup an overissuance of MA benefits received by the Respondent due to an overissuance of MA benefits issued to Respondent, [REDACTED], in the amount of [REDACTED] and her 4 children, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. The total overissuance alleged by the Department totals [REDACTED] Exhibit 1 pp. 32-36. The Respondent and her children were eligible for MA benefits in Michigan for the period, September 1, 2013 through April 30, 2014.

At the hearing, the OIG on behalf of the Department testified he made inquiry through the Paris Match system regarding the Respondent and her children. The evidence presented included a letter dated January 30, 2014 addressed to "Dear Sir or Madam prepared by the Regulation Agent inquiring whether the Respondent and her children who were listed by name and Social Security number and birth date were receiving assistance from 'your state'". Exhibit 1, pp 30. The letter also contains at the bottom an unsigned, undated alleged response without identifying where the response was from, or what state was responding or the name of the individual responding on behalf of the state. The Department testified that the communication was sent by email and received by email, but could not identify the date the response to the January 30, 2014 inquiry was received. No copies of the email correspondence were provided as part of the case record regarding the communications. The Department also presented evidence that the Claimant was on probation in the State of Kansas, but this does not establish that she was receiving medical assistance benefits from Kansas. As this debt collection was sought on the basis that the Claimant received more benefits than she was otherwise entitled to receive due to concurrent receipt of benefits, the Department did not meet its burden of proof due to the lack of evidence that the Respondent received concurrent benefits based upon the evidence presented.

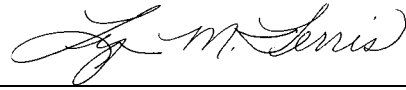
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a MA benefit overissuance totaling [REDACTED] due to concurrent receipt of medical assistance benefits as it did not meet its burden of proof.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish an overissuance in the amount of [REDACTED]

Accordingly, the Department is **REVERSED**.

The Department is ORDERED to delete the OI and cease any recoupment action.



Lynn Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/27/2015**

Date Mailed: **1/27/2015**

LMF / tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

