

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

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-011551 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 (ARO), represented the Department. ██████████, Adult Services Worker (ASW), appeared as a witness 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 an HHS service provider to a Medicaid beneficiary, Carlos Elbert (CE). (Exhibit A, p 8; Testimony).
2. On ██████████, the ASW sent Appellant an Advance Negative Action Notice indicating that Appellant had been overpaid for HHS services provided to CE from ██████████ through ██████████ because Appellant and CE had not returned signed provider logs for that period. The ASW also included blank logs with the Notice, however, completed logs were never returned to the ASW. (Exhibit A, p 7; Testimony)
3. On ██████████ the Department sent Appellant an Initial Collection Notification informing her she owed the Adult Services Program ██████████. (Exhibit A, p 6; 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. (Emphasis added).

ASM 165 05-01-2013,
Pages 1-3 of 7.

The ASW testified that he never received provider logs from Appellant for the period of ██████████. The ASW also indicated that he learned through contact with CE on ██████████, that CE went into the hospital on ██████████. The ASW testified that HHS cannot be authorized without provider logs, signed by the provider and client, being returned to the Department. The ASW indicated that if logs are not returned, policy requires the Department to seek recoupment of amounts paid. The ASW also indicated that policy prohibits payment for HHS that were not actually provided to a client.

Appellant testified that she did return the log for ██████████, but admitted that CE went into the hospital on ██████████, so she would owe the Department for the HHS payments she received in February and March 2015. Appellant indicated that she was having a lot of trouble with the mail in her building at the time and has since moved to Tennessee. Appellant indicated that she is now working and could pay ██████████ per month towards the debt.

In response, the ARO pointed Appellant toward the telephone number of the Collections Unit, should she wish to set up a repayment agreement.

The above cited policy specifically addresses recoupment of payment for services when provider logs are not returned or when services are not provided to a client. Here, the ASW testified in a credible manner that he never received Appellant's provider logs for ██████████. He also indicated, and Appellant admitted, that CE went into the hospital on ██████████, so Appellant could not have provided services to

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CE after that date. While Appellant claims she returned the January provider log, there is no evidence supporting that statement. Furthermore, the ASW resent blank provider logs to Appellant in [REDACTED], which were also not returned.

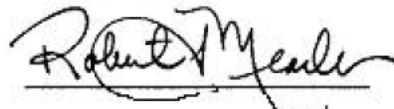
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly sought recoupment from the Appellant for Home Help Services totaling [REDACTED]

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 Nick Lyon, Director
Michigan Department of Health and Human
Services

cc: [REDACTED]

RJM/hlj

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.