

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket No. 15-012669 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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, the Appellant, appeared on her own behalf. ██████████ Appeals Review Officer, represented the Department. ██████████ Financial Manager, and ██████████, Adult Services Worker ("ASW"), 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 an HHS service provider for her mother, a Medicaid beneficiary.
2. Appellant's mother was hospitalized from ██████████, through ██████████. (Uncontested)
3. On ██████████, an ASW issued a letter notifying Appellant that an overpayment occurred for the time period of ██████████, through ██████████ in the amount of ██████████ because the client was hospitalized. (Department Exhibit A, p. 6)

4. On ██████████ the Department issued an Initial Collection Notification to Appellant requesting she repay ██████████ to the Home Help Program. (Department Exhibit A, p. 7)
5. On ██████████ the Department issued a Final Collection Notification to Appellant requesting she repay ██████████ to the Home Help Program. (Department Exhibit A, p. 8)
6. On ██████████ Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Department Exhibit A, p. 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 (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 May 1, 2013,
Pages 1-3 of 7.

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 December 1, 2013,
Page 1 of 5.

The provider and/or client is responsible for notifying the adult services specialist within **10 business days** if the client is hospitalized.

ASM 135 December 1, 2013,
Page 3 of 9.

Appellant is an HHS service provider for her mother, a Medicaid beneficiary. It was uncontested that Appellant's mother was hospitalized from J ██████████ through ██████████. The Department alleges that there was an over issuance of HHS during the time period Appellant's mother was hospitalized.

Appellant testified that she had to be with her mother during the hospitalization and actually provided additional services during that time. Appellant further testified she was not aware that HHS would not pay for services provided when the Medicaid beneficiary is hospitalized.

The above cited AMS 101 policy is clear that HHS is available to individuals that are not currently residing in a hospital. It is also noted that the ASM 135 policy requires the provider and/or client to report a hospitalization to the adult services specialist within █ days. In this case, the hospitalization was not timely reported to the adult services specialist, an HHS payment was issued for the entire month of ██████████, and that warrant was cashed. (See Department Exhibit A, pp. 12-14, and Department Exhibit B) The Department is properly seeking recoupment for the overissuance of HHS for the portion of ██████████ that Appellant's mother was hospitalized.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly sought recoupment from Appellant of the HHS payments in the amount of ██████████ because the client was hospitalized.

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 [REDACTED]

Colleen Lack

Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/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.