



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 10, 2017
MAHS Docket No.: 16-013219
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG). Respondent did not appear at the hearing; and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUES

1. Did Respondent receive an overissuance (OI) of Medical Assistance (MA) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. The Department's OIG filed a hearing request on [REDACTED], to establish an OI of MA benefits received by Respondent.
2. The OIG has not requested that Respondent be disqualified from receiving program benefits.
3. Respondent was a recipient of MA benefits issued by the Department.

4. Respondent was aware of his responsibilities with respect to receiving MA benefits.
5. The Department was not aware of Respondent having an apparent physical or mental impairment that would limit the understanding or ability to fulfill this responsibility.
6. The Department's OIG indicates that the time period it is considering the fraud period (fraud period) is [REDACTED].
7. The Department alleges that during the fraud period the Department paid \$ [REDACTED] in MA benefits on behalf of Respondent; but Respondent was not entitled to any MA benefits.
8. The Department alleges that Respondent received an OI in MA benefits in the amount of \$ [REDACTED]
9. A Notice of Hearing was mailed to Respondent at the last known address and was not returned by the U.S. Post Office as undeliverable.

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.105-.112k. .

An IPV results in a client's disqualification from program benefit recipients other than MA; there is no disqualification for an MA IPV. BAM 720, pp. 15-16.

In this case, the Department alleges that Respondent was overissued MA benefits in the amount of \$ [REDACTED] from [REDACTED] because he received Medicaid benefits from the State of [REDACTED] at the same time that he was receiving Michigan-issued MA benefits. Benefit duplication means assistance received from the same (or same type of) program to cover a person's needs for the same month. Benefit duplication is prohibited except for MA and Food Assistance Program (FAP) in limited circumstances. BEM 222 (June 2011/July 2013), pp. 1-5. With respect to MA benefits, the Department shall assume that an MA applicant is not receiving medical benefits from another state unless evidence suggests otherwise. The Department is not to delay

the MA determination and upon approval, will notify the other state's agency of the effective date of the client's medical coverage in Michigan. BEM 222, p. 2.

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2016), p. 1. Department policy provides that the Department may initiate recoupment of an MA OI due to client error or IPV, not when due to agency error. BAM 710 (October 2015), p. 1. A client error OI occurs when the client received more benefits than entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 5. An agency error OI is caused by incorrect action (including delayed or no action) by Department staff or Department processes. BAM 700, p. 4. The amount of an MA OI for an OI due to any reason other than unreported income or a change affecting need allowances is the amount of MA payments. BAM 710, pp. 1-2.

In support of its contention that Respondent received dual MA benefits, the Department made an out-of-state inquiry and obtained a letter from the State of [REDACTED] Department of Human Services dated [REDACTED], which identifies Respondent by name, date of birth, and Social Security Number and which indicates that Respondent received Medicaid in [REDACTED] from [REDACTED], to present. (Exhibit A, pp. 10-12). The Department also presented an Eligibility Summary which shows that Respondent received Medicaid benefits from the State of Michigan during the fraud period, [REDACTED] and that the State of Michigan made MA payments on his behalf. (Exhibit A, pp. 13-18, 74-78).

Although the Department established that Respondent received dual MA benefits from the State of [REDACTED] and the State of Michigan for the same period, in order to recoup an MA OI, the Department must establish that the OI was due to client error, since an IPV was not alleged in this case. The Department presented Notices of Case Action dated [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED] which advise Respondent that he was approved for MA benefits. (Exhibit A, pp. 19-25, 37-43, 46-51, 57-61).

The Department also presented a redetermination that Respondent completed and submitted on [REDACTED]. The Department asserted that on the redetermination, Respondent did not disclose that he was receiving other insurance coverage from [REDACTED]. A review of the redetermination indicates, however, that Respondent was not asked if he was receiving medical assistance or Medicaid benefits from another state. Rather, Respondent is asked whether anyone in his household has, or is expected to have medical insurance other than Medicaid. (Exhibit A, pp. 64-69). The Department did not present the MA assistance application that Respondent completed when he was initially approved for MA benefits with the State of Michigan. Thus, it was unknown whether Respondent disclosed his prior receipt of Medicaid from [REDACTED] on the application.

As referenced above, in order to recoup an MA OI, the Department must establish that the OI was due to client error. Because the Department did not establish that the OI was a

result of Respondent giving incorrect or incomplete information to the Department, the Department is not entitled to recoupment. Therefore, upon further review, the Department has failed to show that Respondent received a client error caused MA OI in the amount of \$ [REDACTED] for the period between [REDACTED] and [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, concludes that Respondent did not receive an MA OI in the amount of \$ [REDACTED]

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



ZAB/jaf

Zainab A. Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]