



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 4, 2018
MAHS Docket No.: 17-010831
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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, 42 CFR 431.230(b), 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 January 3, 2017, 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

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 July 24, 2017, to establish an OI of 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 the responsibility to report changes in residency to the Department within 10 days.
5. Respondent did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
6. The Department's OIG indicates that the time period it is considering the overissuance period is August 1, 2016, through August 31, 2016 (overissuance period).
7. During the overissuance period, the Department contributed \$ [REDACTED] in funds to provide Respondent's MA benefits and the Department alleges that Respondent was entitled to \$0 in such benefits during this time period.
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 returned by the United States Postal Service 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.

In this case, the Department alleges that Respondent was overissued MA benefits. The Department testified it was not seeking an Intentional Program Violation related to Respondent's MA case. 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 2016), 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.

In support of its contention that Respondent was overissued MA benefits as a result of client error, the Department presented an application submitted by Respondent on January 5, 2016. In the application, Respondent indicated she was residing in the State

of Michigan. However, the Department also presented Respondent's Food Assistance Program (FAP) benefit use history, which showed Respondent began using her FAP benefits exclusively in the State of Illinois beginning February 28, 2016, and continuing until August 5, 2016. Additionally, the Department presented a Work Number report, which revealed Respondent began working with an Illinois-based employer on June 15, 2016. The Work Number also indicated Respondent had an Illinois address. Lastly, the Department presented a Clear Report, which showed Respondent had an Illinois address as of June 2016.

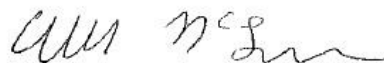
The Department presented sufficient evidence that the alleged MA overissuance was due to Respondent's failure to timely report her change in residency, and thus, was a result of client error. Therefore, the Department can seek a recoupment of a MA overissuance based on client error.

For a MA OI due to any reason other than unreported income or a change affecting the need allowances, the MA OI amount is the amount of the MA payments. BAM 710, p. 2. In this case, the Department presented an expenditure summary showing the total MA payments made by the Department on Respondent's behalf during the MA overissuance period. The sum of these expenses is \$ [REDACTED]. Therefore, the Department is entitled to recoup and/or collect from Respondent a MA OI of \$ [REDACTED] during the MA fraud period.

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 receive an overissuance of MA program benefits in the amount of \$ [REDACTED].

The Department is ORDERED to initiate recoupment and/or collection procedures for the MA overissuance amount of \$ [REDACTED] less any amounts that have already been recouped and/or collected.



EM/

Ellen McLemore

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]

DHHS

[REDACTED]

Respondent

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]