



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 2, 2019
MAHS Docket No.: 18-010793
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION FOR
DEBT COLLECTION

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), 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 December 6, 2018, from Detroit, Michigan. The Michigan Department of Health and Human Services (MDHHS) was represented by Patrick Cousineau, regulation agent. Respondent appeared and was unrepresented.

ISSUE

The issue is whether MDHHS established a debt against Respondent for overissued 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. On March 9, 2016, Respondent submitted to MDHHS an application for MA benefits. Boilerplate application language stated that clients are to inform MDHHS of changes within 10 days. (Exhibit A, pp. 8-15.)
2. From March 30, 2016, to approximately the end of August 2016, Respondent was incarcerated.
3. As of September 2016, Respondent received MA benefits from the State of Missouri. (Exhibit A, pp. 16-18.)

4. On February 18, 2017, Respondent received a driver's license from the State of Missouri. (Exhibit A, p. 25.)
5. From September 2016 through September 2018, Respondent received MA benefits from the State of Missouri. Exhibit A, p. 16.
6. From February 2017 through October 2017, Respondent received ongoing MA benefits from the State of Michigan. The benefits cost the State of Michigan a total of \$[REDACTED] (Exhibit A, pp. 28-30.)
7. On October 11, 2018, MDHHS requested a hearing to establish that Respondent received an overissuance of \$[REDACTED] in MA benefits from February 2017 through October 2017. (Exhibit A, p. 1.)
8. During all relevant times, Respondent had no apparent impairment to understanding or fulfilling reporting requirements. (Exhibit A, p. 31.)

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a hearing to establish a debt against Respondent. MDHHS may request a hearing to establish a debt. BAM 600 (August 2018), p. 5.

MDHHS' Hearing Summary alleged that Respondent received an OI of \$[REDACTED] based on Respondent's duplicate receipt of FAP benefits. MDHHS made similar or identical allegations in an Intentional Program Violation Repayment Agreement (Exhibit A, pp. 5-6) sent to Respondent as part of MDHHS' prehearing procedures.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2016), pp. 1-2. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. *Id.* Recoupment is an MDHHS action to identify and recover a benefit overissuance. *Id.*

MDHHS may establish an overissuance of MA benefits for IPV or client error, but not for agency error. BAM 710 (October 2015), p. 1. For unreported changes, the overissuance

period begins the first day of the month after the month in which the standard reporting period plus the negative action period would have ended. *Id.* Generally, MA overissuances are the amount of MA payments made by MDHHS.¹

For all programs, benefit duplication means assistance received from the same (or same type of) program to cover a person's needs for the same month. BEM 222 (October 2016), pp. 1-3. Benefit duplication is prohibited for MA except in limited circumstances.²

MDHHS presented documentation of Respondent's FAP benefit issuance history from the State of Michigan. The documents established that Respondent received MA benefits costing a total of \$[REDACTED] from February 2017 through October 2017. The evidence established that Respondent received MA from Michigan during the alleged OI period.

MDHHS presented emails dated September 10, 2018, from the State of Missouri which stated that Respondent received MA benefits in Missouri since September 2016 (see Exhibit A, p. 16). The evidence established that Respondent received MA from outside of Michigan during the alleged OI period.

The evidence established that Respondent received MA benefits from two different states from February 2017 through October 2017. Respondent's testimony acknowledged she never reported to Michigan that she received out-of-state MA benefits. The boilerplate language from Respondent's application stated that clients are to report changes to MDHHS within 10 days. MDHHS contended the evidence established a client error resulting in duplicate issuances of MA benefits.

Respondent testified that she was incarcerated shortly after applying for MA benefits. Respondent also stated that she was wholly unaware that Michigan issued her MA benefits because she would not have received notice of the issuance during her incarceration. Respondent's claim of incarceration was corroborated by MDHHS who investigated Respondent's claim and learned that Respondent was incarcerated beginning March 30, 2016.

Respondent's testimony was sympathetic and credible. Respondent's testimony was not necessarily exonerating if Respondent is at fault if her MA application submission obligated her to follow up with Michigan concerning its status. If Respondent was so obligated, then Respondent could be primarily at fault for receipt of Medicaid from

¹ Exceptions to the generality are for clients with Medicaid deductibles or long-term care. Neither circumstance is applicable to the present case.

² The only apparent exception to prohibiting duplicate MA benefits occurs when a client applies for MA benefits from Michigan while receiving MA benefits elsewhere. MDHHS authorizes the immediate issuance of MA benefits, though MDHHS specialists are told to notify the other state issuing MA benefits so that further duplicate benefits are not issued. BEM 222 (October 2016) p. 2.

Michigan while she received Medicaid in another state. As it happened, the State of Michigan was also at fault.

The State of Michigan regularly runs reports to ensure the accuracy of their clients' eligibility. A PARIS Interstate Match is a quarterly data matching service used to help determine if a client has received duplicate benefits in multiple states. BAM 800 (January 2018) p. 5. MDHHS also runs monthly and quarterly reports with the Department of Corrections. BAM 804 (July 2014) pp. 1-2.

MDHHS alleged an overissuance period of February 2017 to October 2017. Evidence was not presented concerning when or if MDHHS ran a PARIS Interstate Match. Based on the 9-month period that Respondent received duplicate MA benefits, it can be inferred that MDHHS did not run the quarterly report as required and/or did not timely follow up on a match from the report. Thus, MDHHS error contributed to Respondent's receipt of duplicate benefits. MDHHS may have also prevented an overissuance if Respondent's MA benefits were stopped during her incarceration period from March 2016 to September 2016.³

Given the evidence, it cannot be stated with any certainty when MDHHS ran or should have run a PARIS Interstate Match and/or incarceration match. Thus, it cannot be stated how much agency error contributed to the overissuance of MA benefits. Without sufficient evidence of an overissuance caused by Respondent's error, an OI cannot follow. Thus, MDHHS is denied request to establish an OI against Respondent.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish a basis to recoup an overissuance of \$[REDACTED] in MA benefits from February 2017 October 2017. The MDHHS request to establish an overissuance is **DENIED**.

CG/



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

³ BAM 804 (July 2014) p. 1. states that client incarcerated longer than 30 days are ineligible to receive benefits. If Respondent's MA benefits were terminated during her period of incarceration, duplicate benefits would not have been issued.

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) 763-0155; 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

DHHS

Denise McCoggle
MDHHS-Wayne 15- Hearings

Petitioner

MDHHS-OIG-Hearings

Respondent

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