



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] FL [REDACTED]

Date Mailed: April 29, 2019  
MOAHR Docket No.: 18-013745  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **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 MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 25, 2019, from Lansing, Michigan. The Department was represented by Daniel Marchetti, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED] [REDACTED] appeared and represented herself. Neither party had any additional witnesses.

### **ISSUE**

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. Respondent received MA from the Department.
2. While Respondent was receiving MA from the Department, Respondent moved to Florida in June 2017.
3. Once Respondent moved to Florida, Respondent contacted the Department to report that she had moved. Respondent then applied for MA from Florida.
4. The Department continued to provide MA to Respondent through December 2017.

5. Respondent did not use the MA provided by the Department from July 2017 through December 2017.
6. The Department discovered that it issued MA to Respondent which she was not eligible for because she was not a resident of Michigan.
7. The Department initiated an investigation of Respondent's case.
8. The Department attempted to contact Respondent, but the Department was unable to obtain an explanation from Respondent.
9. On December 21, 2018, the Department's OIG filed a hearing request to establish that Respondent received an overissuance of benefits.
10. The OIG requested recoupment of \$1,574.30 in MA benefits for benefits issued from July 2017 through December 2017.

### **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.

#### **Overissuance**

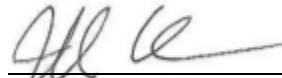
When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. However, overissuances of MA are not pursued when due to a Department error. Here, Respondent was overissued MA due to a Department error because the Department continued to provide MA to Respondent after she reported her moved to the Department. Since Respondent was overissued MA due to a Department error, the Department should not have pursued the overissuance.

**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 received an overissuance of MA to a Department error and pursuit of the overissuance is contrary to the Department's policies. Therefore, a debt for the overissuance is not established.

IT IS SO ORDERED.

JK/nr



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Jeffrey Kemm  
Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

**DHHS**

Lori Duda  
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Oakland 2 County DHHS- via electronic  
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**Petitioner**

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**Respondent**

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