



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], WA [REDACTED]

Date Mailed: June 7, 2019
MOAHR Docket No.: 18-013804
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 June 6, 2019, from Lansing, Michigan. The Department was represented by Amber Johnson, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED] [REDACTED] appeared and represented herself. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. The Department's packet of 34 pages was admitted as Exhibit A, and the Respondent's single-page document was admitted as Exhibit 1.

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 Nevada in May 2017.
3. Once Respondent moved to Nevada, Respondent contacted the Department to report that she had moved. Respondent then applied for MA from Nevada.

4. The Department continued to provide MA to Respondent through February 2018.
5. Respondent did not use the MA provided by the Department from July 2017 through February 2018.
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 contacted Respondent, and Respondent explained that she had reported her move to the Department.
9. On December 27, 2018, the Department's OIG filed a hearing request to establish that Respondent received an overissuance of benefits.
10. The OIG requested recoupment of \$5,272.19 in MA benefits for benefits issued from July 2017 through February 2018.

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

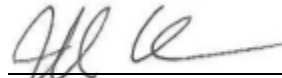
When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. However, overissuances of MA are not pursued when due to a Department error. Here, Respondent was overissued MA due to a Department error because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



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

Denise McCoggle
27260 Plymouth Rd
Redford, MI
48239

Wayne 15 County DHHS- via electronic
mail

MDHHS- Recoupment- via electronic mail

L. Bengel- via electronic mail

Petitioner

OIG
PO Box 30062
Lansing, MI
48909-7562

Respondent

[REDACTED]
[REDACTED]
[REDACTED] WA
[REDACTED]