



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], CA [REDACTED]

Date Mailed: June 25, 2019
MOAHR Docket No.: 19-002613
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 Titles 42 of the Code of Federal Regulations (CFR), particularly 42 CFR 431.230(b). After due notice, a telephone hearing was held on June 19, 2019, from Lansing, Michigan. The Department was represented by Ryan Sevenski, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED] [REDACTED] did not appear. The hearing was held in Respondent's absence.

One exhibit was admitted into evidence during the hearing. A 49-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

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. On [REDACTED] [REDACTED] 2017, Respondent applied for MA from the Department. In the application, the Department instructed Respondent to report all changes which could affect her eligibility for assistance to the Department within 10 days of the date of the change.
2. Respondent did not have any apparent physical or mental impairment which would have limited her understanding or her ability to fulfill her responsibilities to the Department.

3. The Department issued MA to Petitioner.
4. On May 3, 2017, Respondent obtained employment at [REDACTED]. Respondent provided [REDACTED] with a California address as her residence.
5. On May 21, 2017, Respondent had a utility activated in her name with a California address associated with her name.
6. On October 11, 2017, Respondent had another utility activated in her name with a California address associated with her name.
7. On February 8, 2018, the Department received an alert that Respondent was receiving MA concurrently from the Department and California.
8. The Department investigated Respondent's case and determined that Respondent was overissued MA because she failed to report a move as required, which caused the Department to continue to provide MA after she moved. The Department determined that it cost the Department \$3,758.00 to provide MA for Respondent from July 2017 through February 2018.
9. The Department attempted to contact Respondent to obtain her explanation regarding her failure to report her move to the Department as required, but the Department was unable to obtain Respondent's explanation.
10. On February 28, 2019, the Department's OIG filed a hearing request to establish that Respondent owes the Department a debt of \$3,758.00 for the MA she was overissued.
11. A notice of hearing was mailed to Respondent at her last known address and it was not 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.

Overissuance

An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. BAM 700 (October 1, 2018), p.1. When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, p. 1.

Only a resident of Michigan is eligible for assistance from the Department. BEM 220 (April 1, 2018), p. 1. For MA, an individual is a resident if she lives in Michigan except for a temporary absence. BEM 220, p. 2

The Department presented sufficient evidence to establish that Respondent was overissued MA. The Department advised Respondent to report all changes which could affect her eligibility for assistance to the Department within 10 days of the date of the change, and Respondent did not report when she moved. This caused the Department to pay \$3,758.00 for MA for Respondent after she moved. Respondent was not eligible for MA from the Department after she moved because she was no longer a resident of Michigan. Thus, Respondent's failure to report her move caused Respondent to receive MA from the Department which she was not eligible for. Therefore, Respondent owes the Department \$3,758.00 for the cost of the MA the Department provided for Respondent after she moved.

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 a \$3,758.00 overissuance of MA that the Department is entitled to recoup.

IT IS ORDERED THAT the Department may initiate recoupment procedures for the amount of \$3,758.00 in accordance with Department policy.

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

Jessica Kirchmeier
1050 Independence Blvd
Charlotte, MI
48813

Eaton 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

 CA