



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: December 10, 2019  
MOAHR Docket No.: 19-007259  
Agency No.: ██████████  
Petitioner: OIG  
Respondent: ██████████

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**HEARING DECISION FOR DEBT COLLECTION**

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 December 4, 2019, from ██████████ Michigan. The Department was represented by Walter Broadworth, 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).

**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. The Department's OIG filed a hearing request on June 21, 2019, 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 employment and/or income to the Department.
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 fraud period is February 1, 2017 through August 31, 2017 (fraud period).
7. During the fraud period, Respondent was issued \$ [REDACTED] in MA benefits by the State of Michigan; and the Department alleges that Respondent was entitled to \$0.00 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.

The Department initiates MA recoupment of an overissuance (OI) due to client error or intentional program violation (IPV), not when due to agency error. BAM 710 (January 2018), p. 1. For an OI due to any other reason other than unreported income or a change affecting need allowances, the OI amount is the amount of MA payments. BAM 710, p. 2.

Additionally, the Healthy Michigan Plan (HMP) uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if their household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. Additionally, for MAGI-related MA programs, the Department allows a five percent disregard in the amount equal to

five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat five percent disregard from the income. BEM 500, p. 5. The five percent disregard is applied to the highest income threshold. BEM 500, p. 5. The five percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

Looking at 138% of the annual FPL in 2017 for a household with a group size of one, the Medicaid eligibility was \$16,643.00. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one was \$1,368.92. Therefore, to be income eligible for HMP, Respondent's income could not exceed \$16,643.00 annually or \$1,368.92 monthly. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

Effective January 1, 2014, when determining eligibility for new applicants of MAGI-related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See: [http://www.michigan.gov/documents/mdch/SPA\\_13\\_0110\\_MM3\\_MAGI-Based\\_Income\\_Meth\\_446554\\_7.pdf](http://www.michigan.gov/documents/mdch/SPA_13_0110_MM3_MAGI-Based_Income_Meth_446554_7.pdf).

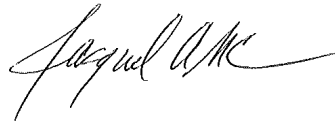
The Work Number provided by the Department showed that for each bi-weekly paycheck during the fraud period with the exception of the February 25, 2017 pay, Respondent received not less than \$2,000.00 and received as much as \$5,723.47 bi-weekly. As such, Respondent's income greatly exceeded the \$1,368.92 in allowable monthly income. Accordingly, the Department has established that an overissuance occurred in the amount of \$██████████ and it is, therefore, entitled to recoup that amount for MA benefits it issued to Respondent during the 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 OI of program MA benefits in the amount of \$ [REDACTED]

The Department is ORDERED to initiate recoupment procedures for the amount of \$ [REDACTED] in accordance with Department policy.



JAM/jaf

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**Jacquelyn A. McClinton**  
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** (via electronic mail)

Denise Croff  
MDHHS- [REDACTED] Hearings  
L Bengel  
Policy Recoupment

**Petitioner** (via electronic mail)

MDHHS-OIG-Hearings

**Respondent** (via first class mail)

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]