



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] MN [REDACTED]

Date Mailed: February 3, 2020  
MOAHR Docket No.: 19-011038  
Agency No.: [REDACTED]  
Petitioner: OIG  
Respondent: [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 Title 42 of the Code of Federal Regulations (CFR), particularly 42 CFR 431.230(b). After due notice, a telephone hearing was held on January 30, 2020, from Lansing, Michigan. The Department was represented by Patrick Cousineau, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED], did not appear. The hearing was held in Respondent's absence.

One exhibit was admitted into evidence during the hearing. A 25-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 October 1, 2018, Respondent applied for assistance from the Department, including MA.
2. On May 24, 2018, the Department mailed a health care coverage determination notice to Respondent to notify him that he was eligible for MA effective June 1, 2018. The notice also instructed Respondent to report all changes which could affect his eligibility for assistance to the Department within 10 days of the date of the change, including changes in address.

3. The Department investigated Respondent's case after it had been providing MA for him. The Department determined that Respondent had been added to a medical assistance case in Minnesota on January 11, 2019.
4. The Department determined that Respondent had been overissued MA by the Department because the Department had provided MA for Respondent after he had been added to a medical assistance case in Minnesota. The Department determined that Respondent was overissued MA from March 1, 2019, through May 31, 2019, and that the overissued MA cost the Department \$1,083.55.
5. The Department attempted to contact Respondent to discuss the circumstances giving rise to the overissuance, but the Department was unable to get in contact with Respondent.
6. On October 10, 2019, the Department's OIG filed a hearing request to establish that Respondent received an overissuance of benefits and that Respondent committed an IPV.
7. The OIG requested recoupment of \$1,083.55 in MA benefits.
8. A notice of hearing was mailed to Respondent at his 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 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. *Id.* at 1.

Only a resident of Michigan is eligible for assistance from the Department. BEM 220 (January 1, 2020), p. 1. For MA, an individual is a resident if he lives in Michigan except for a temporary absence. *Id.* at 2.

The Department established that Respondent was overissued MA. The Department presented sufficient evidence to establish that Respondent was not living in Michigan during the time that he was receiving MA benefits from the Department. Respondent was living in Minnesota as evidenced by the fact that he was added to a public assistance case in Minnesota on January 11, 2019. Respondent did not provide any evidence to the contrary since Respondent did not appear. Thus, I must find that Respondent was not a resident of Michigan and was not eligible for the MA benefits he received from the Department from March 1, 2019, through May 31, 2019. The total amount overissued is \$1,083.55.

**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 \$1,083.55 in MA benefits that the Department is entitled to recoup.

IT IS SO ORDERED.

JK/ml



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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**

Denise McCoggle  
27260 Plymouth Rd.  
Redford, MI 48239

Wayne (District 15) County DHHS – Via  
Electronic Mail

MDHHS Recoupment – Via Electronic  
Mail

L. Bengel – Via Electronic Mail

**Petitioner**

OIG – Via Electronic Mail  
P.O. Box 30062  
Lansing, MI 48909-7562

**Respondent**

[REDACTED] – Via First Class Mail  
[REDACTED], MN [REDACTED]