



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 25, 2020
MOAHR Docket No.: 20-000070
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

Upon the Petitioner's timely hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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 February 25, 2020, from Lansing, Michigan.

Petitioner, [REDACTED] appeared with her daughter, [REDACTED] Respondent, Department of Health and Human Services (Department), had Emily Piggott, Appeals Review Officer, appear as its representative. The Department had two witnesses: Shawnell Campbell, Adult Services Worker, and Redonda Williams, Supervisor. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 28-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine that Petitioner was overpaid \$80.18 in Home Help Services (HHS) payments from June 11, 2019, through June 16, 2019?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a HHS recipient.
2. Petitioner was hospitalized from [REDACTED] 2019, through [REDACTED] 2019.

3. The Department was unaware that Petitioner had been hospitalized, so the Department issued a HHS payment for the entire month of [REDACTED] 2019.
4. On July 11, 2019, the Department issued a [REDACTED] HHS payment for [REDACTED] 2019 made payable to both Petitioner and her provider.
5. Petitioner and her provider cashed the [REDACTED] HHS payment.
6. On October 22, 2019, the Department met with Petitioner to review her case. At the time of the review, the Department learned that Petitioner had been hospitalized from [REDACTED] 2019, through [REDACTED] 2019.
7. The Department determined that Petitioner was overpaid for HHS for [REDACTED] 2019 since she was hospitalized part of the month. The Department determined that the amount of the overpayment was [REDACTED]
8. On October 25, 2019, the Department mailed a letter to Petitioner to notify her that she was overpaid [REDACTED] for HHS because she was hospitalized from [REDACTED] [REDACTED] 2019, through [REDACTED] 2019, and should not have been paid for those dates.
9. On January 8, 2020, Petitioner requested a hearing to dispute the overpayment.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

In this case, the Department is alleging that Petitioner was overpaid HHS payments because she was paid for services during a time when she was hospitalized. The Department cannot pay for HHS when services are provided by another resource at the same time, including services provided during a hospitalization. ASM 101 (April 1, 2018), p. 5. When a client is hospitalized, the client must notify the Department of the hospitalization within 10 business days. ASM 135 (October 1, 2019), p. 4. The Department presented sufficient evidence to establish that the Department did not receive timely notice of Petitioner's hospitalization, and Petitioner was paid for HHS during a time when she was hospitalized. Thus, Petitioner was overpaid HHS payments.

When an overpayment is discovered, the Department must take corrective actions to prevent further overpayment and to recoup the overpayment amount. ASM 165 (April 1, 2019), p. 1. The Department acted in accordance with its policies when it notified Petitioner that she was overpaid [REDACTED] for HHS because Petitioner was overpaid [REDACTED] and the Department had an obligation to recoup the overpayment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Petitioner was overpaid [REDACTED] in Home Help Services (HHS) payments from [REDACTED] 2019, through [REDACTED] 2019.

IT IS ORDERED THAT the Department's decision is **AFFIRMED**.

JK/dh



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 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

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Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]