



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: December 10, 2019
MOAHR Docket No.: 19-008650
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

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 Detroit, Michigan. The Department was represented by Amber Johnson, Regulation Agent of the Office of Inspector General (OIG). The Respondent represented herself at the hearing.

ISSUES

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 July 25, 2019, to establish an OI of benefits received by Respondent as a result of Respondent having allegedly committed an IPV.
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. The September 7, 2016 and June 4, 2017 applications submitted by Respondent notified her of her responsibility to report changes in residency to the Department within 10 days.
5. Respondent did not have a 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 September 1, 2017 (overissuance period).
7. During the overissuance period, Respondent was issued \$2,583.69 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 \$2,583.69.
9. A notice of hearing was mailed to Respondent at the last known address and 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.

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.

In this case, the Department alleges that an OI was present due to client error regarding Respondent's MA benefits. The Department alleges that Respondent failed to notify the Department that she no longer resided in Michigan during the OI period of September 1, 2017 through April 30, 2018, but that she continued to receive MA benefits from Michigan while she was out of state.

Respondent appeared at the hearing. Respondent confirmed that she permanently left the State of Michigan on August 4, 2017. Respondent acknowledged that she did not notify the Department until March 7, 2018, when she submitted a Change Report, that she had relocated to the State of Indiana. Respondent explained that she did not intentionally attempt to defraud the State of Michigan but “had a lot going on” at the time. Respondent also confirmed that she had been receiving and using Michigan MA benefits for approximately six months prior to her relocation to Indiana but never used Michigan MA benefits after her relocation to Indiana. The Department testified that when completing her application for assistance, Respondent acknowledged that she had read the rights and responsibilities of receiving assistance which included reporting changes to the Department within 10 days.

Respondent had an obligation to report changes in her residency for purposes of MA benefits but failed to timely report the change resulting in an overissuance due to client error. The Department established through capitation reports that MA benefits were paid on behalf of Respondent in the amount of \$2,583.69. Since Respondent was not living in Michigan, did not timely report her change in residency, and confirmed that her absence from Michigan was not temporary, the Department has met its burden of proof in establishing an OI of MA benefits. The Department may recoup or collect the MA OI of \$2,583.69.

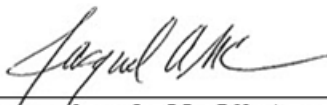
DECISION AND ORDER

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 OI of MA program benefits in the amount of \$2,583.69 from the MA program.

The Department is ORDERED to initiate recoupment/collection procedures for the amount of \$2,583.69 for the MA program in accordance with Department policy.

JAM/jaf



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)

Kara Gubancsik
MDHHS-Oakland-II-Hearings
L Bengel
Policy Recoupment

Petitioner (via electronic mail)

MDHHS-OIG-Hearings

Respondent (via first class mail)

