[redacted]

Date Mailed: February 13, 2020
MOAHR Docket No.: 19-010064
Agency No.: [redacted]
Petitioner: OIG
Respondent: [redacted]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION FOR DEBT COLLECTION

Upon the request for a hearing by the Michigan Department of Health and Human Services (MDHHS), 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 January 27, 2020, from Detroit, Michigan. The hearing was held on the scheduled hearing date and at least 30 minutes after the scheduled hearing time. MDHHS was represented by Brian Siegfried, regulation agent with the Office of Inspector General. Respondent did not appear for the hearing.

ISSUE

The issue is whether MDHHS established a debt against Respondent for overissued Medical Assistance (MA) benefits.

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 May 16, 2016, Respondent submitted to MDHHS an application requesting MA benefits. Respondent was the only reported household member. Boilerplate language stated that clients are to inform MDHHS of changes in address within 10 days.

2. On May 16, 2016, MDHHS mailed a notice informing Respondent of Medicaid approval beginning May 2016. Boilerplate notice language stated that clients are to report income changes to MDHHS within 10 days. Exhibit A, pp. 42-44.

3. On February 23, 2017, MDHHS mailed a notice informing Respondent of Medicaid approval beginning March 2017. Boilerplate language stated that clients are to report residency changes to MDHHS within 10 days. Exhibit A, pp. 45-48.

4. On February 11, 2018, Respondent applied for MA benefits from Arizona.

5. On February 24, 2018, MDHHS mailed a notice informing Respondent of Medicaid approval beginning March 2018. Boilerplate notice language stated that clients are to report income changes to MDHHS within 10 days. Exhibit A, pp. 57-60.

6. From February 2018 through June 2018, Respondent received Medicaid from Michigan at a total cost of $1,580.

7. From February 2018 through September 2018, Respondent received MA benefits from Arizona

8. On an unspecified date in May 2018, MDHHS received a Public Assistance Reporting Information System (PARIS) Interstate Match report stating that Respondent received Medicaid from Arizona.

9. From July 2018 through September 2018, Respondent received Medicaid from Michigan at a total cost of $970.38.

10. On [redacted], 2019, MDHHS requested a hearing to establish a debt related to $2,550.38 of MA benefits issued to Respondent from February 2018 through September 2018.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

MDHHS requested a hearing to establish a debt of $2,550.38 for MA benefits allegedly over-issued to Respondent. Exhibit A, p. 1. MDHHS may request a hearing to establish a

debt. BAM 600 (October 2017) p. 5. An unsigned Intentional Program Violation Repayment Agreement alleged that Respondent failed to report a move to Arizona resulting in overissued Medicaid from February 2018 through September 2018. Exhibit A, pp. 5-6.

For all programs, when a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2016), pp. 1-2. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. *Id*. Recoupment is an MDHHS action to identify and recover a benefit overissuance. *Id*.

For all programs, benefit duplication means assistance received from the same (or same type of) program to cover a person's needs for the same month. BEM 222 (October 2016), p. 1. For MA benefits, benefit duplication is prohibited except in limited circumstances. BEM 222 (October 2016), pp. 1-3. The only circumstance when duplicate MA benefits are allowed is when a client applies for MA benefits in Michigan and is already approved for MA benefits in another state.[1]

A person must be a Michigan resident to be eligible for MA benefits. BEM 220 (January 2016), p. 1. For purposes of MA (other than for institutionalized persons), residency is based on circumstances for the calendar month being evaluated and certified. *Id*. For purposes of MA, a Michigan resident is an individual who is living in Michigan except for a temporary absence. *Id*. Residency continues for an individual who is temporarily absent from Michigan or intends to return to Michigan when the purpose of the absence has been accomplished. *Id*

MDHHS presented documentation of the costs of Respondent's Medicaid coverage. Exhibit A, pp. 63-66. Medicaid costs from February 2018 through September 2018 were listed. Monthly Medicaid costs from February 2018 through September 2018 equates to Medicaid eligibility for each month.

MDHHS' testimony stated that a PARIS Interstate Match Report was received in May 2018 which indicated that Respondent may also be receiving MA benefits from Arizona. To follow-up, MDHHS emailed the State of Arizona requesting information of Respondent's medical coverage there. The State of Arizona responded via email on August 10, 2018, stating that Respondent received Medicaid beginning February 2018. Exhibit A, p. 62. Additionally, the State of Arizona sent Respondent's MA application dated February 11, 2018, on which Respondent reported a residence in Arizona. Exhibit A, pp. 67-90.

The evidence established that Respondent received Medicaid benefits from Michigan from February 2018 through September 2018. The evidence also established that Respondent also received Medicaid from February 2018 through at least August 2018.

[1] Upon approving such a client for MA benefits, MDHHS policy directs specialists to inform the second state where the client is also receiving MA benefits so that the second state can end the client's MA eligibility.

For purposes of this decision, it will be assumed that Respondent received Medicaid in Arizona in September 2018. Thus, the evidence established that Respondent received duplicate Medicaid benefits from February 2018 through September 2018. For Respondent to be responsible for repayment of the OI, MDHHS must also establish that Respondent was the cause of duplicate benefits.

MDHHS may establish an overissuance of MA benefits for IPV or client error, but not for agency error. BAM 710 (October 2016), p. 1. For unreported changes, the overissuance period begins the first day of the month after the month in which the standard reporting period plus the negative action period would have ended. *Id*. Generally, MA overissuances are the amount of MA payments made by MDHHS.[2]

MDHHS alleged that Respondent was responsible for failing to report her move from Michigan to Arizona. Had Respondent reported the move, duplicate benefits would likely not have been issued. To support the allegation, MDHHS presented comments documented by Respondent's specialist. Exhibit A, p. 61. Notably, the comments did not document a reporting by Respondent that she moved to Arizona or was receiving Medicaid from the State of Arizona. MDHHS contended that if Respondent reported her move to Arizona, her reporting would have been documented. Respondent did not appear during the hearing to claim that she reported to MDHHS a move to Arizona.

Respondent should have been aware of her receipt of Medicaid from Michigan beginning during the alleged overissuance period. A HCCDN dated February 24, 2018, informed Respondent of an approval of Medicaid beginning February 2018.

Respondent should have also been aware of the need to report changes affecting benefit eligibility to MDHHS within 10 days. Respondent's Medicaid application dated May 16, 2016, included boilerplate language stating that clients are to report address changes to MDHHS within 10 days. Exhibit A, pp. 9-41. Multiple HCCDNs sent to Respondent also included comparable language. The boilerplate language did not specifically refer to receipt of out-of-state benefits as a required reporting, however, the circumstance so obviously affects a client's benefit eligibility that a client should know not to receive duplicate benefits. The evidence established that Respondent should have been aware of the need to report to MDHHS address changes and/or receipt of out-of-state benefits.

The evidence established that Respondent was at-fault for failing to report to MDHHS non-Michigan residency and/or receipt of out-of-state benefits. A final consideration is MDHHS' contribution in allowing duplicate benefits to continue through September 2018.

The Public Assistance Reporting Information System (PARIS) Interstate Match is a quarterly data matching service used to help determine if a client has received duplicate benefits in two or more states. BAM 814 (January 2018) p. 1. The MDHHS database

[2] Exceptions to the generality are for clients with Medicaid deductibles or long-term care. Neither circumstance is applicable to the present case.

applies a matching criterion to determine a PARIS match with all active recipients. *Id.* A valid match will create a PARIS record on the PARIS Interstate Match Inquiry screen. *Id*. Specialists will receive a task and reminder for each case identified. *Id*.

To reconcile PARIS matches, specialists are to review the case to determine if the information has already been verified. *Id*. If not, MDHHS is to request verification by generating a DHS-4600, Out of State Benefit Match Notice. *Id*. When a DHS-4600 is requested, Bridges automatically gives the client 10 calendar days to provide verification from the date the form was requested. *Id*. Case actions resulting from changes reported via tape match (BENDEX, SDX, IRS, enumeration, etc.) must be completed within 45 days of receiving the information. BAM 220 (April 2019) p. 7.

MDHHS testimony acknowledged that a PARIS report was ran in May 2018 concerning Respondent's potential duplicate medical benefits. MDHHS could have verified a specific date by presenting a PARIS match but was unable to do so despite being asked during the hearing. As MDHHS would have the burden to verify a PARIS report date, the date of PARIS report will be accepted in the most favorable date (i.e. earliest date) for Respondent. Given that MDHHS testified that the PARIS report was ran in May 2018, a May 1, 2018 PARIS match date will be accepted. Based on a PARIS match date of May 1, 2018, and the 45-day timeframe for MDHHS to have processed the report, Respondent's Medicaid eligibility should have been stopped after June 2018. Thus, any Medicaid issued to Respondent after June 2018 was caused by MDHHS error.

Documentation of the costs of Respondent's Medicaid listed costs totaling $1,580 for the benefit months from February 2018 through June 2018. Exhibit A, pp. 64-66. Respondent was at fault for the costs of medical coverage due to a failure to report non-Michigan residency and/or receipt of Arizona benefits. Thus, MDHHS established a debt of $1,580 against Respondent. MDHHS will be denied its request for an overissuance of $970.38 for the costs of Respondent's Medicaid coverage from July 2018 through September 2018 due to agency-error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established a debt against Respondent for overissued Medicaid benefits from February 2018 through June 2018 costing $1,580. The MDHHS request to establish an overissuance of $1,580 of a total debt of $2,550.38 against Respondent is **APPROVED.**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish a debt against Respondent for Medicaid benefits issued from July 2018 through September 2018 costing $970.38. The MDHHS request to establish an overissuance of $970.38 of a total debt of $2,550.38 against Respondent is **DENIED**.

CG/cg

Christian Gardocki
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

Via Email:

MDHHS-Isabella-Hearings
OIG Hearings
Recoupment
MOAHR

Respondent – Via First-Class Mail:

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