



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: February 24, 2020
MOAHR Docket No.: 19-013238
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 Code of Federal Regulations (CFR), particularly 42 CFR 431.230(b). After due notice, a telephone hearing was held on February 13, 2020, from Lansing, Michigan. The Department was represented by Stephanie Janowiak, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED], appeared and represented herself.

One exhibit was admitted into evidence during the hearing. A 26-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 [REDACTED], 2018, Respondent applied for assistance from the Department, including MA.
2. The Department found Respondent eligible for full-coverage MA through the Healthy Michigan Plan.
3. On December 12, 2018, the Department mailed a health care coverage determination notice to Respondent to notify her that she was eligible for full-coverage MA effective December 1, 2018. The notice instructed Respondent to

report all changes which could affect her eligibility for assistance, including changes in employment and income, to the Department within 10 days of the date of the change.

4. On June 3, 2019, Respondent began employment with the [REDACTED].
5. On June 21, 2019, the [REDACTED] issued Respondent her first paycheck.
6. Respondent earned \$2,078.04 in July and \$3,231.52 in August.
7. On September 10, 2019, Respondent attempted to report her employment at [REDACTED] to the Department. Respondent left a voicemail message but did not receive a return call.
8. On October 11, 2019, Respondent successfully reported her employment at [REDACTED] to the Department.
9. The Department reviewed Respondent's case and determined that Respondent was overissued MA because she was issued MA after she was no longer eligible due to her income from employment at the [REDACTED]. The Department determined that Respondent was overissued MA from August 1, 2019, through October 31, 2019. The Department determined that the total amount of the overissuance was the amount it cost the Department to provide MA during the time period involved, which was \$656.51 (the sum of \$298.69 for August, \$299.01 for September, and \$58.81 for October).
10. On November 6, 2019, the Department's OIG filed a hearing request to establish that Respondent received an overissuance of benefits.
11. The OIG requested the establishment of a debt in the amount of \$656.51 for the MA overissuance.
12. A notice of hearing was mailed to Respondent at her 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.

When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at p. 2. In this case, Respondent received MA that she was not entitled to because her income exceeded the applicable limit. Thus, Respondent received an overissuance.

In order to be eligible for MA through the Healthy Michigan Plan, an individual must have income less than 133% of the Federal Poverty Level. BEM 137 (January 1, 2019), p. 1. In 2019, 133% of the Federal Poverty Level for a household size of one was \$16,611.70 per year or \$1,384.31 per month. 84 FR 1168 (February 1, 2019), p. 1167-1168. Respondent's income exceeded the limit starting in July 2019. Thus, Respondent was not entitled to the MA beginning in July 2019.

The Department asserted that Respondent was overissued MA from August 2019 through October 2019 because Respondent did not report her employment to the Department within 10 days as required. The Department contended that had Respondent reported her employment within 10 days as required, the Department would have been able to initiate the closure of her MA effective July 31, 2019, and the Department would not have had to pay for Respondent's continuing MA. Thus, the Department asserted that it was Respondent's error that caused the overissuance.

Respondent asserted that she first reported her employment in September 2019. If Respondent first reported her employment in September 2019, Respondent was late reporting her employment because she reported it more than 10 days after she began her employment. Since Respondent reported her employment late, the Department was unable to initiate the timely closure of her MA, and the Department had to pay for Respondent's continuing MA. Thus, Respondent's error did cause an overissuance.

The amount of the overissuance is the cost of MA issued from August 2019 through September 2019. The overissuance does not include October 2019 because Respondent first reported her employment in September 2019, and the Department should have been able to initiate the closure of her MA effective September 30, 2019. Thus, any issuance of MA beyond September 2019 was the Agency's error.

For these reasons, I find that the evidence presented supports the establishment of an overissuance in the amount of \$597.70.

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 MA in the amount of \$597.70 that the Department is entitled to recoup.

JK/ml



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

Oakland (District 2) County DHHS – Via
Electronic Mail

Recoupment – Via Electronic Mail

L. Bengel – Via Electronic Mail

Petitioner

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

Respondent

