



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], MI [REDACTED]

Date Mailed: March 4, 2020
MOAHR Docket No.: 19-013542
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 March 4, 2020, from Lansing, Michigan. The Department was represented by Jason Rupp, Regulation Agent of the Office of Inspector General (OIG). Respondent, [REDACTED], did not appear.

One exhibit was admitted into evidence during the hearing. A 43-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], 2016, Respondent applied for assistance from the Department, including MA. In the application, Respondent represented that he was living in Michigan. The Department 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.
2. Respondent did not have any apparent physical or mental impairment that would limit his understanding or his ability to fulfill his responsibilities to the Department.

3. On June 29, 2017, Respondent began employment at [REDACTED], Texas. Respondent remained employed there through September 5, 2017.
4. Respondent did not report to the Department that he had moved out of state or that he had obtained employment.
5. The Department continued to provide MA to Respondent as if he was still living in Michigan. The Department provided MA to Respondent from August 2017 through November 2017 at a cost of \$1,035.28.
6. The Department subsequently received an alert that Respondent was receiving MA from the Department and the State of Texas at the same time.
7. The Department investigated Respondent's case and determined that Respondent was overissued MA because he failed to report to the Department that he moved to Texas, which caused the Department to continue to provide MA to Respondent.
8. The Department attempted to contact Respondent to obtain his explanation, but the Department was unable to obtain an explanation from Respondent.
9. On November 18, 2019, the Department's OIG filed a hearing request to establish that Respondent received an overissuance of benefits.
10. The OIG requested the establishment of a debt in the amount of \$1,035.28 for the MA overissuance.
11. 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.

In this case, the Department is alleging that Respondent was overissued MA because Respondent continued to receive MA after he moved out of Michigan. 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.

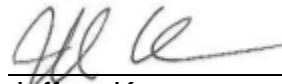
The Department presented sufficient evidence to establish that Respondent moved out of Michigan in July 2018 and ceased to be a resident of Michigan. Respondent moved to Texas, obtained employment, and signed up to receive MA in Texas. These actions demonstrate that Respondent moved from Michigan and that his absence was not temporary. Thus, Respondent ceased to be a resident of Michigan.

When Respondent ceased to be a resident of Michigan, Respondent became ineligible for MA from the Department. The Department issued MA to Respondent from August 2017 through November 2017 at a cost of \$1,035.28. When a client receives more benefits than he 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. Since Respondent was not eligible for the MA that the Department issued to him from August 2017 through November 2017, Respondent was overissued \$1,035.28 in MA.

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 \$1,035.28 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

Saginaw 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

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]