



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], OH [REDACTED]

Date Mailed: May 18, 2022
MOAHR Docket No.: 22-000729
Agency No.: [REDACTED]
Petitioner: OIG
Respondent: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

The Michigan Department of Health and Human Services (MDHHS or the Department) requested a hearing alleging that Respondent Asia Gibbs committed an intentional program violation (IPV). Pursuant to MDHHS' request and in accordance with MCL 400.9, 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and Mich Admin Code, R 400.3130 and R 400.3178, this matter is before the undersigned Administrative Law Judge. After due notice, a hearing was held via telephone conference on May 11, 2022. Sashae White, Regulation Agent of the Office of Inspector General (OIG), represented MDHHS. Respondent did not appear at the hearing, and it was held in Respondent's absence pursuant to 7 CFR 273.16(e)(4); Mich Admin Code, R 400.3130(5); or Mich Admin Code, R 400.3178(5).

ISSUES

Did Respondent receive an overissuance (OI) of Medical Assistance (MA) benefits that MDHHS is entitled to recoup and/or collect as a recipient claim?

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], 2019, Respondent submitted an application to MDHHS for MA for a group size of one. Prior to submission of the application, Respondent must review rights and responsibilities as a benefit recipient, including timely reporting changes in household circumstances to MDHHS (Exhibit A, pp. 10-61)
2. On May 28, 2019, MDHHS issued a Health Care Coverage Determination Notice to Respondent informing her that she was approved to receive MA effective May 1, 2019 ongoing. Respondent was reminded of her responsibilities as a benefit

recipient to timely report any changes in her household circumstances to MDHHS (Exhibit A, pp. 62-64).

3. From October 20, 2018 to January 2, 2021, Respondent worked at [REDACTED] (Employer) located in Ohio. Respondent provided an Ohio home address with Employer (Exhibit A, pp. 128-131).
4. Respondent signed a lease agreement for an apartment in [REDACTED], Ohio, for a term from August 1, 2019 to August 12, 2020. Respondent arranged utilities for this property in her name (Exhibit A, p. 103; pp. 113-114).
5. On September 26, 2019, Respondent submitted an application to receive MA and food assistance from the state of Ohio (Exhibit A, pp. 65-102).
6. Respondent signed a lease agreement for an apartment in [REDACTED], Ohio, for a term from August 1, 2020 to July 31, 2021. Respondent arranged utilities for this property in her name (Exhibit A, p. 104-112; pp. 113-114).
7. From August 26, 2020 to December 4, 2020, Respondent was an active student at [REDACTED] (Exhibit A, pp. 124-126).
8. On January 23, 2021, Respondent submitted an application to receive MA and food assistance from the state of Ohio (Exhibit A, pp. 65-102).
9. On January 25, 2021, Respondent reported to the Ohio Department of Family Services that she was an active student at [REDACTED] and worked at Employer located in Ohio (Exhibit A, p. 123).
10. MDHHS conducted a database search in the Public Assistance Reporting Information System (PARIS) interstate match system to determine if Respondent was receiving duplicate benefits in two or more states. This search is conducted using Respondent's Social Security Number (SSN). The search showed that Respondent was receiving MA in both Michigan and Ohio (Exhibit A, pp. 132-133).
11. On September 1, 2019, Respondent began to receive MA in Ohio. As of April 30, 2020, Respondent's MA case was still active in Ohio (Exhibit A, pp. 115-120).
12. From October 1, 2019 to April 30, 2020, MDHHS paid \$[REDACTED] in capitation costs for MA coverage on Respondent's behalf (Exhibit A, pp. 137-139).
13. Respondent does not have an apparent physical or mental impairment that would limit the understanding or ability to accurately report her household circumstances.
14. Respondent has no prior FAP IPV disqualifications.

15. On February 16, 2022, MDHHS' OIG filed a hearing request alleging that Respondent intentionally received concurrent MA benefits in Michigan and Ohio from October 1, 2019 to April 30, 2020 (fraud period). OIG requested that Respondent repay \$ [REDACTED] to MDHHS for MA benefits that Respondent was ineligible to receive.
16. A notice of hearing was mailed to Respondent at the last known address and was not returned by the United States Postal Services as undeliverable.

CONCLUSIONS OF LAW

MDHHS policies are contained in the MDHHS 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 to 42 USC 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 to 42 CFR 430.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10 and MCL 400.103 to MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

MDHHS may initiate recoupment of an MA overissuance only due to client error or IPV, not when due to agency error. BAM 710 (January 2018), p. 1. A client error OI occurs when the client received more benefits than entitled to because the client gave incorrect or incomplete information to MDHHS. BAM 700 (October 2018) p. 7. An IPV occurs when a recipient of Department benefits intentionally made a false or misleading statement, or misrepresented, concealed or withheld facts. For an IPV based on inaccurate reporting, Department policy requires that an OI, and all three of the following exist: the client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and the individual was also clearly and correctly instructed regarding his or her reporting responsibilities and the individual have no apparent physical or mental impairment that limits his or her understanding or ability to fulfill reporting responsibilities. BAM 720 (October 2017), p. 1. To establish an IPV, MDHHS must present clear and convincing evidence that the household member committed, and intended, to commit the IPV or intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. 7 CFR 273.16(e)(6); BAM 720, p. 1. Clear and convincing evidence is evidence sufficient to result in a clear and firm belief that the proposition is true. See M Civ JI 8.01; *Smith v Anonymous Joint Enterprise*, 487 Mich 102; 793 NW2d 533, 541 (2010)

In this case, MDHHS alleges that Respondent intentionally received concurrent MA benefits from Michigan and Ohio during the fraud period.

Respondent began to receive MA issued by the State of Ohio on September 1, 2019. As of April 30, 2020, Respondent's MA case was still active in Ohio. Respondent also clearly maintained Ohio residency during the fraud period. Respondent worked at Employer, located in Ohio, from October 20, 2018 to January 2, 2021. Respondent provided Employer with an Ohio home address. Respondent signed a lease agreement for an apartment in [REDACTED], Ohio, for a term from August 1, 2019 to August 12, 2020. Respondent arranged utilities for this property in her name. Respondent then signed a lease agreement for a different apartment in [REDACTED], Ohio, for a term from August 1, 2020 to July 31, 2021. Respondent arranged utilities for this property in her name as well. Respondent was an active student at [REDACTED] from August 26, 2020 to December 4, 2020. Despite Respondent clearly being an Ohio resident and receiving MA consistently issued by the State of Ohio, she still applied for MA issued by the State of Michigan on [REDACTED], 2019. Respondent falsely represented to MDHHS that she was a Michigan resident in order to obtain concurrent MA benefits. On September 1, 2019, Respondent began to receive MA in Ohio. As of April 30, 2020, Respondent's MA case was still active in Ohio. From October 1, 2019 to April 30, 2020, MDHHS paid \$ [REDACTED] in capitation costs for MA coverage on Respondent's behalf. Since Respondent was receiving concurrent MA benefits from two different states during the fraud period, any MA benefits issued to her were overissued due to an IPV. Therefore, MDHHS may issue a recoupment of overissued MA benefits.

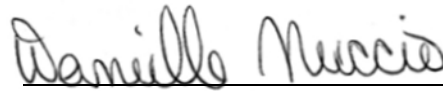
The amount of a MA OI for an overissuance due to any reason other than unreported income or a change affecting need allowances is the amount of MA payments. BAM 710, p. 1-2. MDHHS established that the State of Michigan paid \$ [REDACTED] in MA capitation payments to provide Respondent with MA coverage from October 1, 2020 to January 31, 2021, the period in which she was also receiving MA from Rhode Island (see Exhibit A, pp. 38-40). Since Respondent was not eligible for the MA benefits Michigan issued, MDHHS is entitled to to recoup \$ [REDACTED].

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:

1. Respondent **did** receive an OI of program benefits in the amount of \$ [REDACTED] from the MA program.

IT IS ORDERED that MDHHS initiate recoupment/collection procedures for the MA OI amount of \$ [REDACTED] in accordance with Department policy, less any amount already recouped/collected.



Danielle Nuccio
Administrative Law Judge

DN/dm

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

Sent via Email:

MDHHS-Wayne-17-hearings
MDHHS-OIG-Hearings
Policy-Recoupment
L. Bengel
MOAHR
BSC2HearingDecisions

Sent via First-Class Mail:

[REDACTED]
[REDACTED], OH [REDACTED]