



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR



Date Mailed: June 12, 2024  
MOAHR Docket No.: 24-005081  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference line on June 5, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Minnie Egbuono, overpayment analyst.

### **ISSUE**

The issue is whether MDHHS properly initiated collection actions against Petitioner.

### **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 an unspecified date, Petitioner was convicted by a Michigan circuit court under 22-005431-01-FH for an MDHHS benefit-related crime and, following a settlement, ordered to pay \$5,403 in restitution for over-issued Food Assistance Program (FAP) benefits.
2. As of an unspecified date, Petitioner fully paid the amount of restitution concerning FAP benefits.
3. On an unspecified date following Petitioner's completed restitution payments, MDHHS intercepted an unspecified amount of monies from Petitioner's tax return and/or bank account(s) to satisfy an unsubstantiated claim for Medical Assistance (MA) benefits.

4. On April 16, 2024, Petitioner requested a hearing to dispute MDHHS's collection actions.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a debt claimed by MDHHS. Exhibit A, pp. 3-4. Petitioner contended that MDHHS improperly intercepted an unspecified amount of monies from Petitioner's tax return and/or bank account for the debt. MDHHS testified that the collection actions occurred due to a claim against Petitioner for allegedly over-issued MA benefits.<sup>1</sup>

An OI is the benefits issued to the client group in excess of what it was eligible to receive. BAM 700 (October 2018) pp. 1-2. When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the OI. *Id.* Recoupment is an MDHHS action to identify and recover a benefit OI. *Id.* A claim is the resulting debt created by an OI of benefits. *Id.*

MDHHS may pursue collection actions on claims. Claims for active programs are repaid by lump-sum cash payments, monthly cash payments such as when court-ordered, and/or administrative recoupment (benefit reduction). BAM 725 (January 2021) p. 5. OI balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. *Id.*, p. 2. Federal salaries, benefits and tax refunds may be offset to repay any collectible FAP claim if delinquent. *Id.*, p. 12.

Petitioner's testimony acknowledged that she was defendant in a criminal matter involving FAP benefit fraud. Petitioner also testified that her attorney reached a settlement with the MDHHS concerning a claim amount. Petitioner further testified that the settlement amount was fully paid and contended that no further collection actions should have followed.

MDHHS initially testified that Petitioner owed \$5,403 for a claim of FAP benefits related to Petitioner's court case; MDHHS acknowledged this claim was fully paid by Petitioner. However, MDHHS also testified that Petitioner owed \$10,773.32 for an alleged claim for

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<sup>1</sup> MDHHS did not present documentary evidence verifying existence of the claim or its amount. The only evidence of the claim and its amount was from MDHHS's testimony.

over-issued MA benefits. MDHHS further testified that it collected unspecified monies from Petitioner for the MA claim.

During the hearing, MDHHS acknowledged it had no evidence that a valid MA claim against Petitioner existed. MDHHS's acknowledgement was based on a June 5, 2024, email from the Office of Inspector General stating that Petitioner has no known debt or claim for MA benefits and that Petitioner fully paid the debt concerning FAP benefits. Exhibit B, p 1.

MDHHS may not pursue collection actions for a non-existent claim. Thus, Petitioner is entitled to a reversal of the MA claim. Furthermore, Petitioner is entitled to a refund of any monies collected to satisfy the non-existent claim. Unfortunately, the order reversing the collection actions cannot be specified as neither party provided evidence of the amount that was collected.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to establish an MA claim against Petitioner. MDHHS further failed to establish a basis for pursuing collection actions against Petitioner related to the MA claim. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Delete any claim related to Petitioner's circuit court case concerning MA benefits;
- (2) Refund Petitioner for collection actions taken concerning the claim for MA benefits; and
- (3) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr

  
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**Christian Gardocki**  
Administrative Law Judge

**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 Electronic Mail:**

**DHHS**  
Richard Latimore  
Wayne-Conner-DHHS  
4733 Conner  
Detroit, MI 48215  
**MDHHS-Wayne-57-Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section (OES)  
235 S Grand Ave, Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-HEARINGS@Michigan.gov**

**Interested Parties**  
BSC4  
M. Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED], MI [REDACTED]