

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 26, 2020
MOAHR Docket No.: 19-013186
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

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 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on February 11, 2020. [REDACTED], the Petitioner, appeared on her own behalf. Allison Pool, Appeals Review Officer (ARO), represented the Department of Health and Human Services (Department). Scott Beltz, Adult Services Worker (ASW), and Cam Crowell, Manager of Collections, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-35.

ISSUE

Did the Department properly pursue recoupment against the Petitioner for an overpayment of Home Help Services ("HHS") for the time period of April 1, 2018, through September 30, 2018?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a Medicaid beneficiary who has had an open HHS case since September 2, 2015. (Exhibit A, p. 14)
2. Around April 1, 2018, the Department switched computer programs for the HHS program. (ASW Testimony)

3. The computer program duplicated the HHS hours for several activities (bathing, grooming, and travel for shopping) in Petitioner's HHS authorization when her case switched to the new program. This resulted in a duplicate payment for these tasks in the monthly HHS authorization. (Exhibit A, p. 20; ASW Testimony)
4. The HHS payment warrants for the overpayment period were issued as dual-party warrants. (ASW Testimony)
5. On September 25, 2019, the Department sent Petitioner notice that it had determined that an overpayments of \$ [REDACTED] had occurred for each month during the time period of April 1, 2018, through September 30, 2018, because the computer program duplicated multiple tasks in the HHS payment. (Exhibit A, pp. 7-12)
6. On December 10, 2019, the Department sent Petitioner a Second Collection Notice stating: their records showed that Petitioner owes the State of Michigan \$ [REDACTED]; Petitioner was previously notified of this debt; requesting payment; and stating that it would implement further collection action if it did not hear from Petitioner by December 24, 2019. (Exhibit A, p. 13)
7. On December 30, 2019, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for an administrative hearing. (Exhibit A, pp. 6-13)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services (HHS) are provided to enable functionally limited individuals to live independently and receive care in the least restrictive, preferred settings. These activities must be certified by a health professional and may be provided by individuals or by private or public agencies.

The HHS policy regarding overpayment and recoupment process states, in part:

GENERAL POLICY

The Michigan Department of Health and Human Services (MDHHS) is responsible for determining accurate payment for services. When payments are made in an amount greater than allowed under department policy an overpayment occurs. When an overpayment is discovered, corrective actions must be taken to prevent further overpayment and to recoup the overpayment amount

OVERPAYMENT TYPES

The overpayment type identifies the cause of an overpayment:

- Client errors.
- Provider errors.
- Administrative or departmental errors.
- Department upheld at an administrative hearing.

Appropriate action must be taken when any of these overpayments occur.

Administrative Errors

An administrative error is caused by incorrect actions by MDHHS.

Computer or Mechanical Process Errors

A computer or mechanical process may fail to generate the correct payment amount to the client, individual caregiver and/or agency provider resulting in an over payment. The adult services worker (ASW) must determine who to initiate recoupment from depending on payment type (dual-party warrant or single-party warrant).

- If the overpayment occurred over multiple months, the DHS 566 will need to be completed on multiple recoupment letters as MiAIMS only allows one warrant payment at a time. Two party warrants issued in the Home Help program are viewed as client payments. Any overpayment involving a two-party warrant must be treated as a client overpayment.

The Department is seeking recoupment from Petitioner of \$ [REDACTED], a portion of the HHS payment for each of the months of April 2018 through September 2018. (Exhibit A, pp. 7-13) The reason for the recoupment is that overpayments occurred for these months because the Department's computer system duplicated several tasks in the monthly HHS authorization. The HHS payment warrants for the overpayment period were issued as dual-party warrants. Therefore, policy directs that the Department recoup the overpayment from Petitioner, the HHS client. (ASW Testimony)

Petitioner testified that she had not realized she would be responsible for a computer or program error. Neither Petitioner nor her provider made the error. Petitioner does not understand how it is fair that she has to pay this back when she was not even aware that there was an overpayment until the Department told her that it had occurred. (Petitioner Testimony)

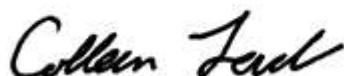
Given the record in this case and the Department's policies, the undersigned Administrative Law Judge finds that the Department properly seeks recoupment for the overpayment caused by the computer error duplicating tasks in Petitioner's HHS payment authorization for the months of April 2018 through September 2018. Further, the Department properly seeks recoupment from Petitioner, the HHS client, because the HHS payment warrants were issued as dual-party warrants. Accordingly, the Department's determination to recoup HHS payments totaling \$ [REDACTED] for the time period of April 1, 2018, through September 30, 2018, from Petitioner is upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly pursued recoupment against the Petitioner for HHS payments totaling \$ [REDACTED] for the time period of April 1, 2018, through September 30, 2018, based on the available information.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **AFFIRMED**.



Colleen Lack

Administrative Law Judge
for Robert Gordon, Director
Department of Health and
Human Services

CL/dh

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 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI 48909

DHHS Department Rep.

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Agency Representative

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Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]