

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

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AGENCY CLERK

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STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

HUMANE MINORITY, INC.,

Respondent.

DOAH CASE NO. 07-2450MPI

AUDIT NO. C.I. 06-4494-000

RENDITION NO.: AHCA-09- 655 -FOF-MDO

**FINAL ORDER**

This case was referred to the Division of Administrative Hearings (DOAH) where the assigned Administrative Law Judge (ALJ), June C. McKinney, issued a Recommended Order after conducting a formal hearing. At issue in this proceeding is whether the Agency for Health Care Administration is entitled to a recoupment for a Medicaid overpayment to Respondent in the amount of \$177,581.26. The Recommended Order dated June 22, 2009, is incorporated herein by reference and attached to this Final Order.

**RULING ON EXCEPTIONS**

The parties did not file any exceptions to the Recommended Order.

**FINDINGS OF FACT**

The Agency adopts the findings of fact set forth in the Recommended Order.

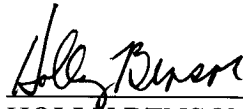
**CONCLUSIONS OF LAW**

The Agency adopts the conclusions of law set forth in the Recommended Order.

**IT IS THEREFORE ADJUDGED THAT:**

Respondent is required to repay \$177,581.26 in Medicaid overpayments, plus statutory interest as articulated in the Recommended Order, to the Agency for paid claims covering the period from January 1, 2005 to February 28, 2006. Additionally, the Agency imposes a \$3,000 fine on the Respondent. Respondent shall make full payment of the overpayment and fine to the Agency for Health Care Administration within 30 days of the rendition of this Final Order. Respondent shall pay by check payable to the Agency for Health Care Administration and mailed to the Agency for Health Care Administration, Office of Finance and Accounting, 2727 Mahan Drive, Fort Knox Building 2, Mail Stop 14, Tallahassee, Florida 32308.

**DONE and ORDERED** this 28<sup>th</sup> day of July, 2009, in Tallahassee, Florida.



\_\_\_\_\_  
HOLLY BENSON, Secretary  
AGENCY FOR HEALTH CARE ADMINISTRATION

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY ALONG WITH THE FILING FEE PRESCRIBED BY LAW WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. or interoffice mail to the persons named below on this 5<sup>th</sup> day of August, 2009.



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RICHARD J. SHOOP, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308  
(850) 922-5873

COPIES FURNISHED TO:

Honorable June C. McKinney  
Administrative Law Judge  
Division of Administrative Hearing  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060

L. William Porter, II, Esquire  
Assistant General Counsel  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308

Humane Minority, Inc.  
111 Southwest 67<sup>th</sup> Avenue  
Miami, Florida 33144

Medicaid Program Integrity  
Agency for Health Care Administration  
2727 Mahan Drive, MS #4  
Fort Knox Building III  
Tallahassee, Florida 32308

Henry Evans  
Finance & Accounting

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

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AGENCY FOR HEALTH CARE )  
ADMINISTRATION, )  
 )  
Petitioner, )  
 ) Case No. 07-2450MPI  
vs. )  
 )  
HUMANE MINORITY, INC., )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

This case came before Administrative Law Judge June C. McKinney of the Division of Administrative Hearings for final hearing by video teleconference on February 11, 2009, at sites in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: L. William Porter, Esquire  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop No. 3  
Tallahassee, Florida 32308

For Respondent: No appearance

STATEMENT OF THE ISSUE

Whether Petitioner, Agency for Health Care Administration (AHCA or Petitioner), is entitled to a recoupment for a Medicaid overpayment to Respondent, Humane Minority, Inc. (Humane or Respondent), in the amount of \$177,581.26.

to file Proposed Recommended Orders. Petitioner timely filed a proposal that has been considered in the preparation of this Recommended Order. Respondent did not present any proposed findings or conclusions.

Unless otherwise indicated, all statutory references are to the codification in effect at the time of the alleged overpayment.

#### FINDINGS OF FACT

1. Petitioner is the state agency responsible for administering the Florida Medicaid Program. As part of its duties, Petitioner attempts to recover Medicaid overpayments from Medicaid providers.

2. At all times material to this case, Humane was licensed to provide various health care services to Medicaid recipients under a contract to AHCA as a Medicaid provider. As provider number 255724000, Humane participated in the Medicaid program from January 1, 2005, to February 8, 2006 (audit period).

3. As a Medicaid provider, Respondent was subject to audit. This case arose when the Discovery Unit of Medicaid Program Integrity (MPI) identified that during the audit period Humane billed 1.5 times as much for one week as compared to ten other weeks, which is an indicator of billing irregularities. As a result, the Discovery Unit of MPI recommended a comprehensive audit of Humane.

which violated various Medicaid policy guidelines set forth in both the Florida Medicaid Provider General Handbook (General Handbook)<sup>1</sup> and the Florida Medicaid Physician Services Coverage and Limitations Handbook (Physician Services Handbook).<sup>2</sup>

10. Humane violated policy by providing documentation that supported a lower level of office visit than the one for which Humane billed and received payment.

11. Humane violated policy by billing and receiving payments for some services that were not documented.

12. Humane violated policy by billing and receiving payment for services rendered by a practitioner who was not a member of Humane's group.

13. Humane violated policy by billing for procedure codes that have time requirements but not documenting the time spent providing the service.

14. Humane violated policy by billing and receiving payment for services performed by another practitioner who was not enrolled in Medicaid at the time the services were rendered.

15. Humane violated policy by billing and receiving payment for services for which the medical records, when reviewed by a Medicaid physician consultant, indicated that the services provided did not meet the Medicaid criteria for medical necessity.

21. A Final Audit Report-Corrected Copy was issued on May 22, 2007, correcting the total amount due.<sup>3</sup>

22. In addition to the overpayment amount, Petitioner also seeks a fine in the amount of \$3,000.00. The fine is a calculated amount as authorized by rule.

#### CONCLUSIONS OF LAW

23. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and the parties thereto pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2008).

24. AHCA is empowered to "recover overpayments and impose sanctions as appropriate." § 409.913, Fla. Stat. An overpayment includes any amount that is not authorized to be paid by the Medicaid program whether paid as a result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake." § 409.913(1)(e), Fla. Stat.

25. As the party asserting the overpayment, AHCA bears the burden of proof to establish the alleged overpayment by a preponderance of the evidence. See Southpointe Pharmacy v. Department of Health and Rehabilitative Services, 596 So. 2d 106 (Fla. 1st DCA 1992).

26. Section 409.913(7)(e), Florida Statutes, provides in pertinent part as follows:

the Medicaid statutes, rules, General Handbook, and Physician Services Handbook.

29. Respondent failed to present any evidence and in doing so failed in its duty to meet the Agency's prima facie case with any written proof to rebut, impeach or otherwise undermine AHCA's statutorily-authorized evidence.

30. Therefore, the audit report supports and constitutes evidence of the overpayment claimed. In this case, it is established that Respondent received an overpayment in the amount of \$177,581.26.

31. Florida Administrative Code Rule 59G-9.070 authorizes the imposition of fines for Medicaid violations. Section 409.913(25)(c), Florida Statutes, provides that overpayments owed to AHCA bear interest at the rate of 10 percent per annum from the date of determination of the overpayment. The fine in the amount of \$3,000.00 is within the guidelines of the rule.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Agency enter a final order requiring Humane to repay the Agency for the principal amount of \$177,581.26 together with an administrative fine of \$3000.00.



Richard J. Shoop, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop No. 3  
Tallahassee, Florida 32308

Holly Benson, Secretary  
Agency for Health Care Administration  
Fort Knox Building, Suite 3116  
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Tallahassee, Florida 32308

Justin Senior, Acting General Counsel  
Agency for Health Care Administration  
Fort Knox Building, Suite 3431  
2727 Mahan Drive  
Tallahassee, Florida 32308

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.