STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted],

Appellant
_____/

Docket No. 2009-13658 HHS
Case No. [redacted]
Load No. [redacted]

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant appeared without representation. He had no witnesses. [redacted], represented the Department. Her witness was [redacted].

ISSUE

Did the Department properly terminate the Appellant's HHS services?

FINDINGS OF FACT

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

1) The Appellant is a [redacted] Medicaid beneficiary and social security disability recipient. (Appellant's Exhibit #1)

2) The Appellant is afflicted with Bipolar disorder, defective memory, alcoholism and right leg GSW. (Department's Exhibit A, p. 14)

3) On [redacted], a services negative action notice was sent to the Appellant advising him on the pending termination of his HHS services for lack of a certified medical need. (Department's Exhibit A, pp. 2, 5)

4) The ASW, following notice, terminated HHS services when the Appellant's physican did not certify that the Appellant needed HHS. (Department's Exhibit A, p. 20)

5) A subsequent DHS 54A was submitted by the Appellant's physician on [redacted], certifying a need for HHS services in the areas of meal preparation, shopping, laundry and housework. He noted too, that the Appellant needs a psychiatric evaluation. (Department's Exhibit A, p. 21)

6) According to the ASW, HHS services and payments were reinstated retroactive to [redacted], following yet another home call on [redacted]. (See Testimony)

7) On [redacted], the instant appeal was received by SOAHR. (Appellant's Exhibit #1)

CONCLUSIONS OF LAW

The Medical Assistance Program 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 medical professional.

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will be entered on the computer program.

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the customer in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer's social security card.
- Observe a picture I.D. of the caregiver, if applicable.

- The assessment must be updated as often as necessary, but minimally at the six-month review and annual re-determination.

- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the agency record.

- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

Adult Service Manual (ASM), §363, page 2 of 24, September 1, 2009.

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. <u>The client is responsible for obtaining the medical certification of need.</u> The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:

  •• Physician.
  •• Nurse practitioner.
  •• Occupational therapist.
  •• Physical therapist.

Exception: DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

If the medical needs form has not been returned, the adult services worker should follow-up with the client and/or medical professional.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

> Do **not** authorize HHS prior to the date of the medical professional signature on the DHS-54A. (Emphasis supplied) ASM *Supra* page 9 of 24.

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Department witness ASW Cone explained that the medical needs form was not returned as certifying a medical need for services. In conjunction with her in person assessment the annual comprehensive assessment, scheduled for [redacted], could not be completed.

She said she rescheduled a home visit for [redacted], and that another DHS 54A was received – this time it was signed by the physican and certified a need for services. The witness said she approved services retroactively to the signature date.

It was established by the credible testimony of the Department's witnesses that the Appellant's home help was properly terminated for lack of medical certification.

On review – it was noted in the record that the Appellant's HHS benefits were reinstated [retroactively] to the date of certification.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated the Appellant's request for home help services.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 4/14/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.