

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2009-28353 HHS

Case No. ██████████

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 ██████████. ██████████ appeared on behalf of the Appellant. Appellant and ██████████, were also present.

██████████, represented the Department (DHS). ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly terminate Appellant's home help 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. Prior to ██████████ Appellant was receiving Department of Human Services (DHS) Home Help Services.
2. Recently, the Appellant's Medicaid status was changed to ineligible. (Exhibit 1 pages 5-8).
3. The Appellant's monthly deductible is ██████████ and her ██████████ HHS payment authorization was ██████████.
4. Appellant's Departmental records show she has a Medicaid spend-down of ██████████ per month and that her spend-down was not met or expected to be met. (Exhibit 1 pages 5, 6 and 7).
5. On ██████████, the Department mailed the Appellant an advance negative

action notice indicating her Medicaid-funded adult home help chore services would be terminated because she was no longer eligible for Medicaid. (Exhibit 1 pages 5-6).

6. On ██████████, the Department received Appellant's Request for Hearing. (Exhibit 1 page 3).

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 health professional and may be provided by individuals or by private or public agencies.

The issue of eligibility for home help services is addressed in *Adult Services Manual (ASM) 9-1-2008, Page 7 of 24*:

ELIGIBILITY FOR HOME HELP SERVICES

Home help services (HHS) are defined as those, which the Agency is paying for through Title XIX (Medicaid) funds. The client must be eligible for Medicaid in order to receive these services.

Medicaid/Medical Aid (MA)

Verify the client's Medicaid/Medical aid status.

The client may be eligible for MA under one of the following:

- All requirements for MA have been met, **or**
- MA spend-down obligation has been met.

The Department must implement its programs in accordance with its policies. The Department policy listed immediately above mandates that a person must be eligible for Medicaid or the monthly spend-down must be met in order to receive home help services.

The Department witness adult services worker testified that she learned that the Appellant was no longer eligible for Medicaid and as a result she sent a negative action notice informing the Appellant that she was no longer eligible for Medicaid. The Department provided credible evidence that the Appellant's Medicaid status had changed and at the time

the DHS worker sent the notice of denial/withdrawal the Appellant was not eligible for Medicaid. (Exhibit 1 page 16).

The Appellant stated that she wished to dispute her change in Medicaid eligibility and a recoupment issue. It was explained that the DHS office has Jurisdiction over eligibility issues, not the Department of Community Health (DCH). The Appellant said she would file a request for hearing with DHS regarding Medicaid eligibility. Because the Appellant's request for hearing also included a DHS Medicaid eligibility and a recoupment issue the Appellant's 90-day time period for requesting a hearing with DHS should be extended, but not longer than 90 days from the date of this hearing.

The Appellant did not establish by a preponderance of evidence that she was eligible for Medicaid home help services. The Department representative and witnesses provided sufficient evidence that the Appellant was not eligible for Medicaid and therefore was not eligible for DHS home help services.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 10/15/2009

***** 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.