STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted]

Appellant
_____/

Docket No. 2009-29848 HHS
Case 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]. [redacted] (Appellant) appeared and testified on her own behalf. [redacted], represented the Department of Community Health (Department). [redacted], Adult Services Workers, appeared as witnesses for the Department.

ISSUE

Must the Department determine whether Appellant is entitled to an increase in HHS?

FINDINGS OF FACT

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

1. Appellant was a Medicaid beneficiary and recipient of HHS at all times relevant to this matter.

2. In [redacted], Appellant requested an increase in HHS.

3. The Department failed to process Appellant's request for an increase in HHS in a timely manner.

4. On [redacted], the State Office of Administrative Hearings and Rules received Appellant's hearing request.

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 physician and may be provided by individuals or by private or public agencies.

Home Help Services (HHS)

Payment related independent living services (HHS) are available if the client meets HHS eligibility requirements. Clients who may have a need for HHS should be assisted in applying for Medicaid (MA). Refer the client to an eligibility specialist. Cases pending MA determination may be opened to program 9 (ILS). HHS eligibility requirements include all of the following:

- The client must be eligible for Medicaid, **a**nd
- Have a scope of coverage of:
  - 1F or 2F,
  - 1D or 1K, (Freedom to Work), **or**
  - 1T (Healthy Kids Expansion), **and**
- The client must have a need for service, based on
  - Client choice, **and**
  - **Comprehensive Assessment (DHS-324) indicating a functional limitation of level 3 or greater in an ADL or IADL, and**
- **Medical Needs (**DHS-54A) form signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:
  - Physician.
  - Nurse practitioner.
  - Occupational therapist.
  - Physical therapist.

NOTIFICATION OF ELIGIBILITY DETERMINATION

Provide any person who applies for independent living services with a written notice of approval, denial or withdrawal.

Services Approval Notice (DHS-1210)

If independent living services are approved, complete and send a DHS-1210 indicating what services will be provided. If home help services will be authorized, note the amount and the payment effective date.

Advance Negative Action Notice (DHS-1212)

If independent living services are denied or withdrawn, or if payment is suspended or reduced, the adult services worker must notify the client of the negative action.

The Advance Negative Action Notice (DHS-1212) is used and automatically generated on ASCAP when the following reasons are selected:

Reduced - decrease in payment.
Suspended - payments stopped but case remains open.
Terminated - case closure.

Adequate Negative Action Notice (DHS 1212A)

The Adequate Negative Action Notice (DHS-1212A) is used and generated on ASCAP when ILS cases have been denied or withdrawn.

The DHS-1212 and DHS-1212A informs the client of the right to request a hearing and explains the procedures for requesting a hearing

The Request for Hearing form (DCH-0092) is also generated when either the DHS-1212 or DHS-1212A are printed and must be mailed along with the negative action notice.

The adult services worker must sign the bottom of the second page before forwarding it to the client.

Update the comprehensive assessment and the service plan every six months. Review the adequacy of the service plan to assure it meets the client's current needs.

Review eligibility for independent living services every 12 months, or sooner if the client's condition or circumstances warrant.

The annual review requires:

MA eligibility verification, if relevant.
Comprehensive assessment.
Service plan.
Renewal of the medical needs (DHS-54A).

Adult Services Manual (ASM) 362, effective 12-1-2007

In this case, Appellant requested an increase in HHS on or about [redacted]. Based on the evidence on the record, Appellant was transferred to a new case worker at the time she requested the increase in services. Appellant's current case worker testified that he was not aware that Appellant had requested an increase in HHS in February until the day of the hearing.

The Department was required to act upon Appellant's request in a timely manner and determine whether she was entitled to an increase in HHS. Accordingly, the Department must redetermine Appellant's eligibility for HHS based on her reported change in circumstance.

Appellant's current Adult Services Worker testified that Appellant refuses to cooperate with the Department in submitting verification needed for HHS review. Appellant should be aware that the Department has a right to deny her request for HHS if she refuses to make a reasonable effort in submitting verification needed to determine her continued eligibility for services.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department must determine whether Appellant is entitled to an increase in HHS.

IT IS THEREFORE ORDERED THAT:

The Department must act in accordance with the HHS policy and redetermine Appellant's eligibility for HHS based upon Appellant's change in circumstances that was reported to the Department on [redacted].

_____
Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

[redacted]
Docket No. 2009-29848 HHS
Decision and Order

cc: [redacted]

Date Mailed: 10/1/2009

***** 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.