

**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. 2009-33291 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 her own behalf. ██████████, represented the Department of Community Health (DCH or Department). ██████████, 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. Appellant is a ██████████ woman with lower back pain. (Exhibit 1, page 17).
2. Appellant is a Medicaid beneficiary.
3. From at least ██████████ through ██████████ Appellant was enrolled in the Department of Human Services (DHS) Home Help Services (HHS) program. (Exhibit 1, pages 14, 15).
4. Prior to ██████████ the Appellant's DHS-enrolled chore provider was ██████████. (Exhibit 1, pages 18, 19). ██████████ per hour rate capped the DHS county chore provider rate. (Exhibit 1, page 20).
5. On ██████████, DHS no longer allowed payment for the ██████████ excessive rate and the DHS Adult Services Worker informed the Appellant she would need to enroll a new chore provider. (Exhibit 1, page 13).

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6. By [REDACTED] Appellant had not enrolled any individual as her DHS HHS chore provider. On [REDACTED], the Department sent a Negative Action Notice notifying Appellant that her HHS payment was being terminated due to failure to hire a home help provider. (Exhibit 1, pages 10-11).
7. The Appellant told her worker she wanted her son to be her chore provider. The Appellant's son interviewed with DHS but never provided a copy of his social security card as required for DHS HHS enrollment.
8. By [REDACTED] Appellant's son had not enrolled as her chore provider nor had any other individual enrolled as her chore provider. (Exhibit 1, pages 7-8).
9. On [REDACTED], the Department sent a second Negative Action Notice notifying Appellant that her case was being terminated due to failure of her son/proposed chore provider to provide a copy of his social security card as required for DHS HHS enrollment. (Exhibit 1, pages 7-8).
10. On [REDACTED], the State Office of Administrative Hearings and Rules (SOAHR) received Appellant's Request for Hearing. (Exhibit 1, pages 3-5).

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 Social Welfare Act, 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.

Adult Services Manual (ASM 363 9-1-2008), pages 18-20 of 24 addresses when HHS payments can be authorized, the payments rates allowed, notification of changes, and when payment can be terminated if provider does not properly enroll:

Provider Interview

Explain the following points to the customer and the provider during the initial interview:

- The provider is employed by the customer **not** the State of Michigan.
- A provider who receives public assistance **must** report all income received as a home help provider to the FIS/ES.

- The customer is the employer and has the right to hire and fire the provider.
- The customer is responsible for notifying the worker of any change in providers or hours of care.
- The services the provider is responsible for and has agreed to deliver including the frequency, amount and type of service.
- The provider **must** keep a log of the services provided Personal Care Services Provider Log (FIA-721) and submit it on a quarterly basis.
- The customer **must** sign the Authorization for Withholding of FICA Tax in Home Help Payments (FIA-4771).
- The customer **and** provider **must** sign the Home Help Services Statement of Employment (MSA-4676).

Providers considered as a business are exempt from signing the DCH-4676.

Provider Enrollment

Home help providers **must** be enrolled on the Model Payments System (MPS) prior to payment authorization. See the [ASCAP user guide](#) on the Adult Services home page for directions on enrolling a provider.

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PAYMENT AUTHORIZATION

Payment Authorization System

Enter home help provider enrollments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS provider database. See the ASCAP user guide on the adult services home page.

HHS payments to providers must be:

- Authorized for a specific type of service, period of time and payment amount.
- Authorized to the person actually providing the service.
- Made payable jointly to the client and the provider.

Any payment authorization that does **not** meet the above criteria must have the reason fully documented in the **Payments** module, exception rationale box, in **ASCAP**. The supervisor will document through the electronic approval process.

* * * *

Local Office Agency Home Help Provider Hourly Rate

Each local DHS office has an established agency home help provider hourly rate. There are no exceptions to the agency home help provider hourly rate. See [ASB 2008-002](#) for the chart of agency rates per county and the rules establishing the agency rates.

Payment Rates

HHS payments **cannot** exceed established maximum levels. **All** payments to the client are included within the maximum level, even if the client has more than one provider.

(Underline added by ALJ).

The Department must implement the Home Help Services program in accordance to Department policy. The DHS worker testified that DHS policy prohibited HHS payment for ██████████. The DHS Adult Services Worker informed the Appellant she would need to enroll a new chore provider. The above policy demonstrates that DHS offices are prohibited from exceeding county home help provider rates. The document evidence corroborates the DHS worker's testimony and it is determined that DHS properly terminated payment to ██████████. (Exhibit 1, page 13).

The DHS worker also credibly testified that:

- By ██████████, Appellant had not enrolled any individual as her DHS HHS chore provider and therefore the Department sent a Negative Action Notice notifying Appellant that her HHS payment was being terminated. (Exhibit 1, pages 10-11).
- The Appellant told her worker she wanted her son to be her chore

provider, the Appellant's son interviewed with DHS but never provided a copy of his social security card.

- By [REDACTED] Appellant's son had not enrolled as her chore provider nor had any other individual enrolled as her chore provider. (Exhibit 1, pages 7-8).
- On [REDACTED], the Department sent a second Negative Action Notice notifying Appellant that her HHS case was being terminated due to failure of her son/proposed chore provider to provide a copy of his social security card. (Exhibit 1, pages 7-8).

The Appellant testified that her son decided not to be her chore provider and that she could not find anyone else to be her HHS chore provider.

The Department established that the Appellant never explicitly sought help from DHS to find a HHS chore provider.

The Appellant questioned why her HHS case had to be closed solely because she had not enrolled a provider. The DHS policy clearly indicates that HHS payments can be terminated if the chore provider fails to meet qualification criteria and that a HHS case can be closed if payments remain terminated for more than 90 days (Exhibit 1, page 18):

HHS PAYMENTS Suspend and/or terminate payments for HHS in **any** of the following circumstances:

- The client fails to meet any of the eligibility requirements.
- The client no longer wishes to receive HHS.
- The client's provider fails to meet qualification criteria.

* * * * *

REINSTATEMENT OF HHS PAYMENTS

When HHS payments have been terminated and subsequently reopened within 90 days, they may be reinstated without completing a new DHS-390 if the client meets eligibility criteria.

ASM 362, 12-1-2007, pages 4-5 of 5. (Underline added by ALJ).

The Department established that unless a HHS provider is enrolled with DHS, HHS payments can be terminated. The Department further established that a Home Help Services case may be closed if no provider is enrolled within 90 days of payment termination.

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The testimony and document evidence in this case demonstrate that Appellant had no enrolled provider from [REDACTED], through [REDACTED], and therefore the Department acted properly when terminating the Appellant from the HHS program.

The Appellant bears the burden of proving by a preponderance of evidence that she had an enrolled provider within 90 days of HHS payment termination but failed to meet that burden.

For the above reasons, it is decided that the Department acted properly and in accordance with policy when it terminated Appellant's HHS 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:

[REDACTED]

Date Mailed: 10/22/2009

***** 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.