

**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. 2009-32887 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. ██████████, represented the Department of Community Health (DCH or Department). ██████████, and ██████████, appeared as witnesses for the Department.

ISSUE

Did the Department properly suspend Appellant's Home Help Services payments?

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 Medicaid beneficiary with a history of cerebral palsy.
2. Appellant's chore provider is her sister and her representative at hearing. (Exhibit 1, pages 4-6).
3. Approximately one week prior to ██████████, the Adult Services Worker sent the Appellant a letter informing the Appellant of a home visit to conduct the Home Help Services annual review assessment.
4. On ██████████, the Adult Services Worker appeared for the review assessment but neither the Appellant nor her sister/chore provider/representative were home for the annual assessment. (Exhibit 1, page 8).
5. On ██████████, the Adult Services Worker made a second home call attempt to

conduct the review assessment but neither the Appellant nor her sister/chore provider/representative were home. (Exhibit 1, page 8).

6. The Appellant was out-of-town at her sister's [REDACTED] cabin from at least [REDACTED] (Exhibit 1, page 4). The Appellant's sister/chore provider/representative was with the Appellant at the [REDACTED] cabin and was not present for the review assessment home call. (Exhibit 1, page 4). Neither the Appellant nor the Appellant's sister informed the Adult Services Worker that they were going out-of-town.
7. On or after [REDACTED], the Department sent the Appellant a notice of suspension stating as a reason for the suspension "...There were 2 unsuccessful calls on the client's home on [REDACTED], and [REDACTED]. No response." (Exhibit 1, page 3).
8. On [REDACTED], the Adult Services Worker received a call from the Appellant's sister/chore provider/representative informing the worker that the Appellant had not received the home call review letter and that she and the Appellant had been out-of-town. (Exhibit 1, page 7).
9. On [REDACTED], the Department received Appellant's Request for Hearing. (Exhibit 1, Pages 3 through 6).

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.

DHS HHS staff is mandated to conduct regular reviews of HHS cases. The DHS policy related to assessment and reviews, states in pertinent part:

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (FIA-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 redetermination.**
- 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 Services Manual (ASM 363 9-1-08), page 2 of 26
(Bold emphasis added by ALJ).

There is no dispute between the parties that the Appellant was not available for her mandated review assessment because she had traveled to her sister's [REDACTED] cabin. The Department was proper to suspend her HHS case because she was not available for her [REDACTED], review assessment or for a [REDACTED], second attempt home visit.

At the hearing the Appellant's sister/chore provider/representative stated that the Appellant had not received the home visit letter informing of the review date. The Appellant's sister/chore provider/representative testified that she and her husband owned a cabin in [REDACTED], she unexpectedly needed to go to the [REDACTED] location, and she took the Appellant with her.

The Department is bound by DHS policy and as such it properly suspended the Appellant's HHS after two failed attempts for a home visit assessment. The Appellant failed to establish by a preponderance of evidence that the Department's suspension of Appellant's HHS was not in accordance with DHS policy. This Administrative Law Judge is also bound by DHS policy and lacks the equitable jurisdiction to order the DHS to provide payment that was


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suspended pursuant to DHS policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly suspended 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: 10/22/2009

***** 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.