

**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. 2009-6473 HHS

Case No. ██████████

Load 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 ██████████. ██████████, Appellant's representative, appeared and testified on behalf of Appellant. ██████████, represented the Department of Community Health (Department). ██████████, appeared and testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's Home Help Services (HHS) application?

FINDINGS OF FACT

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

1. On or about ██████████, the ██████████ DHS (Department) office received a request for HHS on behalf of Appellant.
2. On ██████████, a Department worker mailed a DHS-390, HHS application, and a DHS-54A, Medical Needs form, along with a letter, requesting that Appellant return a completed DHS-390 and DHS-54A to the Department by ██████████ (Exhibit 1, p. 6)

3. On ██████████ the Department denied Appellant's request for HHS on the basis that she failed to return a completed DHS-390 and DHS-54A to the Department in a timely manner.
4. On ██████████ the State Office of Administrative Hearings and Rules received Appellant's hearing request, protesting the denial of HHS.

CONCLUSIONS OF LAW

At the outset of the hearing, the Department representative moved to DISMISS the hearing on the basis that Appellant has since moved from ██████████ to ██████████. The Department's Dismissal request was denied on the basis that Appellant had a right to a hearing on whether ██████████ Department of Human Services (DHS) properly denied her Home Help Services application. The State Office of Administrative Hearings and Rules has Jurisdiction if there has been a **denial**, suspension, reduction or termination of a Medicaid covered service.

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.

GENERAL SERVICES REQUIREMENTS

The client must sign an Adult Services Application (DHS-390) to receive ILS. An authorized representative or other person acting for the client may sign the DHS-390 if the client:

- Is incapacitated, **or**
- Has been determined incompetent, **or**
- Has an emergency.

A client unable to write may sign with an "X", witnessed by one other person (e.g., relative or department staff). Adult services workers must not sign the services application (DHS-390) for the client.

Eligibility must be determined within 45 days of the signature date on the DHS-390.

ASSIST (Automated Social Services Information and Support) requires a disposition within 30 days of the registered request.

See ASSIST User Manual (AUM) 150-7/8.

The DHS-390 is valid indefinitely unless the case is closed for more than 90 days.

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, **and**
- 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.

Expanded Home Help Services (EHHS)

EHHS eligibility exists if **all** HHS eligibility criteria are met **and** the assessment indicates the client's needs are so severe that the cost of care cannot be met within the HHS monthly maximum payment.

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.

Adult Services Manual (ASM) 362, effective 6-1-2007, Pages 1-3

Do **not** authorize HHS prior to the date of the medical professional signature on the DHS-54A.

Adult Services Manual (ASM) 363, effective 6-1-2007

In this case, Appellant is protesting the denial of her HHS application. The Department established that it mailed an HHS application and Medical Needs form, with a cover letter, requesting that the forms be completed and returned to the local office by [REDACTED]. Appellant's representative acknowledged the receipt of Appellant's application packet. The Department denied Appellant's application on [REDACTED] for the reason that the documentation needed for HHS eligibility

was not submitted to the Department by the due date. Department policy states clearly that the Department cannot authorize HHS without receiving a completed application. Additionally, the Department cannot authorize a HHS payment prior to the date of the physician's signature on the Medical Needs form, which certifies Appellant's need for assistance with personal care activities.

This Administrative Law Judge must uphold the Department's denial of Appellant's HHS application. Appellant's representative failed to provide the necessary evidence to establish that the documentation that was needed to determine Appellant's HHS eligibility was submitted to the Department by the due date. Appellant's representative claims that she mailed the completed application and Medical Needs form to the Department by the due date. However, her testimony was inconsistent, not credible, and not given much weight.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:


The Department's decision is AFFIRMED.

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

cc:



Date Mailed: 2/19/2009


Docket No. 2009-6473 HHS
Decision and Order

***** 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.