

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

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IN THE MATTER OF:

Docket No. 2010-20559 HHS
Case No. [REDACTED]

[REDACTED]
Appellant
_____ /

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 on his own behalf.

[REDACTED] r, represented the Department. [REDACTED]
[REDACTED] (ASW),
appeared as a witness for the Department.

ISSUE

Did the Department properly deny Home Help Services (HHS) payments to the Appellant?

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 [REDACTED] year-old man. (Exhibit 1).
2. Appellant moved from [REDACTED] to [REDACTED] at some time before [REDACTED]. (Exhibit 2).
3. Appellant is approved for Medicaid but his Medicaid only becomes active upon his meeting a monthly [REDACTED] spenddown amount. (Exhibit 1, pages 8-9).
4. Appellant had not met his monthly [REDACTED] spenddown amount in [REDACTED] [REDACTED] or [REDACTED]. (Exhibit 1, pages 8-9).
5. Appellant had a knee replacement surgery in [REDACTED]. (Exhibit 2).

6. On [REDACTED], the Department sent an Adequate Action Notice notifying Appellant that his Home Help Services request would be denied. The reason given was that the Appellant had provided no physician-signed, medical needs form certification for assistance, and therefore did not meet eligibility criteria. (Exhibit 2).
7. On [REDACTED], the Appellant's doctor filled out a medical needs form and indicated the Appellant had no medical need for services. (Exhibit 1, page 7).
8. On [REDACTED], the Appellant's ASW sent an Adequate Action Notice notifying Appellant that his Home Help Services payments would be denied. The reason given was that the Appellant had no medical certification for assistance, and therefore did not meet eligibility criteria. (Exhibit 1, pages 4-6).
9. On [REDACTED], 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 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 agencies.

Adult Services Manual (ASM 363, 9-1-08), page 9 of 24 outlines the Department's policy regarding date of HHS authorization:

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.

- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
 - Physician.
 - Nurse practitioner.
 - Occupational therapist.
 - Physical therapist.

* * * * *

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

According to Department policy, the DHS **must** deny an application for HHS if there is no medical professional certification of medical need. The ASW Worker testified that during the application process she noted the Appellant's physician indicated "NO" need for assistance in Box I of the DHS-54A medical needs form. (Exhibit 1, page 16). Because the Appellant had no medical certification for assistance the Department properly denied his application.

The Appellant testified that he had a knee replacement in [REDACTED]. The Appellant stated he asked for home help services back in September and he wanted reimbursement for a friend who helped him for two (2) weeks after his knee replacement. The Appellant provided no DHS-54A medical needs form with medical professional certification for need of HHS-specific services, before or immediately following surgery, or presently. The Appellant provided no evidence that his friend signed an HHS provider enrollment provider prior to providing services.

The above Department policy is clear that HHS payment cannot be authorized prior to the date of signature of physician certifying medical need.

The Department's ASW witness responded that no HHS payments can be made to a chore provider prior to the date the chore provider signs a provider agreement. Although Appellant testified his friend called the DHS office, he provided no evidence that she signed a provider agreement.

The Department policy at Adult Services Manual (ASM 363 9-1-2008), pages 16-17 of 24 supports the Department's position:

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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.

There was discussion during the hearing regarding whether the Appellant had met his spenddown for [REDACTED] time period of his knee replacement. The issue is moot, however, because the Appellant was unable to get a medical needs form signed by his orthopedic surgeon at the time of his knee replacement surgery recovery in [REDACTED]

The Appellant bears the burden of proving by a preponderance of evidence that the Department's denial was not proper. The Appellant did not provide a preponderance of evidence that the Department's denial was not proper. The Department must implement the Home Help Services program in accordance to Department policy. The Department provided sufficient evidence that it properly denied the Appellant's HHS payment authorization in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied his 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: 05/12/2010

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***** 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.