

**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:

Docket No. 2010-23437 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], Appellant's chore provider, was also present.

[REDACTED], represented the Department (DHS). [REDACTED], and [REDACTED], appeared as witnesses for the Department.

ISSUE

Did the Department properly suspend 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. Prior to [REDACTED], Appellant was receiving Department of Human Services (DHS) Home Help Services. (Exhibit 1 pages 13-14).
2. In [REDACTED], the Appellant's Medicaid scope of coverage changed from 1F to 2C and he had a monthly deductible that must be met before his Medicaid became active. (Exhibit 1 page 5).
3. The Appellant's monthly deductible (Medicaid spend-down) for [REDACTED] and his HHS payment authorization for those months was [REDACTED]. (Exhibit 1 pages 5, 17).
4. Appellant's Departmental records show he did not meet his spend-down [REDACTED] and [REDACTED]. (Exhibit 1 pages 5 and 12).

5. On [REDACTED] the Department mailed the Appellant an advance negative action notice indicating his Medicaid-funded adult home help chore services payment would be suspended because he did not meet spend-down needed for active Medicaid. (Exhibit 1 pages 6-9).
6. On [REDACTED], the Department received Appellant's Request for Hearing. (Exhibit 1 pages 3-4).

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.

The issue of eligibility for home help services is addressed in *Adult Services Manual (ASM 363) 9-1-2008, Page 7 of 24*:

ELIGIBILITY FOR HOME HELP SERVICES

Home help services (HHS) are defined as those, which the Agency is paying for through Title XIX (Medicaid) funds. The client must be eligible for Medicaid in order to receive these services.

Medicaid/Medical Aid (MA)

Verify the client's Medicaid/Medical aid status.

The client may be eligible for MA under one of the following:

- All requirements for MA have been met, **or**
- MA spend-down obligation has been met.

Adult Services Manual (ASM 362) 12-1-2007, Page 2 of 5, details the scope of coverage a Medicaid beneficiary must have in order to be eligible for home help services payment:

- The client must be eligible for Medicaid.
- Have a scope of coverage of:

- 1F or 2F
- 1D or 1K...

The Department must implement its programs in accordance with its policies. The Department policy listed immediately above mandates that a person must be eligible for Medicaid with a scope of cover 1F or 2F or the monthly spend-down must be met in order to receive home help services.

The Department witness adult services worker testified that he learned that in [REDACTED], the Appellant's scope of coverage changed from 1F to 2C and he had a monthly deductible that must be met before his Medicaid was active. (Exhibit 1 page 5). The Department witness adult services worker testified the Appellant had not met his [REDACTED] spend-down amount in [REDACTED], and because his Medicaid was not active he was not eligible HHS payment. As a result the adult services worker explained he sent a negative action notice informing the Appellant that he was not eligible for HHS payment for the days of the month his Medicaid was not active, in this case, the entire month of [REDACTED]. The Department provided credible evidence that the Appellant's Medicaid status had changed and at the time the adult services worker sent the notice of denial/withdrawal the Appellant's Medicaid was not active. (Exhibit 1 pages 5-12).

The Appellant stated that he did not wish to testify until his attorney arrived. The Appellant gave no definitive time the alleged attorney would arrive, produced no appearance from an attorney, and produced no request for hearing signed by an attorney agreeing to represent the Appellant. It is noted that the hearing was more than twenty minutes in length and at no time did an attorney appear; or contact SOAHR to indicate he wished to participate, was delayed or requested an adjournment. The Appellant presented no evidence that he had met his Medicaid spend-down and had active Medicaid [REDACTED].

The Appellant did not establish by a preponderance of evidence that he was eligible for Medicaid home help services payment. The Department representative and witnesses provided sufficient evidence that the Appellant's Medicaid was not active, and therefore, was not eligible for home help services payments.

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.

[REDACTED]
Docket No. 2010-23437 HHS
Hearing Decision & Order

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: 5/27/2010

***** 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.