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:

[redacted]

Appellant
_____/

Docket No. 2010-25074 HHS
[redacted]

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] appeared on the Appellant's behalf. [redacted] appeared. [redacted] Appeals and Review Officer, represented the Department. [redacted] Adult Services Worker, and [redacted] Adult Services Supervisor, were present as Department witnesses.

ISSUE

Did the Department properly closed the Appellant's Home Help Services case?

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 [redacted] the Department issued the Independent Living Services introduction letter, a DHS 390 Adult Services Application and DHS 54-A Medical Needs for to the Appellant. (Exhibit 1, page 9)

2. The Appellant was living in [redacted] when the first DHS 390 Adult Services Application was submitted. ([redacted] Testimony)

3. In a [redacted] telephone conversation, the Department told the Appellant's representative that they had not receive a DHS 54-A Medical Needs form completed by the Appellants physician. (Exhibit 1, page 10)

4. On [redacted] the Department received a DHS 54-A Medical Needs, however the physician did not answer all of the necessary questions. (Exhibit 1, page 10)

5. The Appellant moved to [redacted] the first week of [redacted] Testimony)

6. On [redacted] the Department noted they attempted to contact the Appellant's representative about the incomplete DHS 54-A Medical Needs form, that the signature page was not returned with the first page of the Adult Services Application and that the Appellant had moved to [redacted] before an appointment for the assessment could be scheduled. (Exhibit 1, page 10)

7. On [redacted] a new worker received the Appellant's referral for the Home Help Program as he services the area the Appellant moved to. [redacted] Testimony)

8. On [redacted] the worker issued a home call letter to the Appellant. (Exhibit 1, page 6)

9. The Appellant's representative received the home call letter and left messages with the Department to change the home visit date because the Appellant was going to be moving. The Appellant's representative did not receive any response from the Department [redacted] i Testimony)

10. When the worker attempted to perform the [redacted], home visit, the woman in the home stated that no person with the Appellant's name lived in the home. ([redacted] Testimony and Exhibit 1, pages 6-7)

11. On [redacted] the worker issued an Advance Negative Action Notice to the Appellant stating her case is being closed because the worker had sent a letter and attempted to contact the Appellant by phone but she was unavailable, the Appellant did not live at the given address, and the worker had no other way to contact the Appellant. (Exhibit 1, pages 6-7)

12. The Appellant moved back to [redacted]. [redacted] Testimony)

13. On [redacted], the State Office of Administrative Hearings and Rules received the Appellant's Requests for Hearing. (Exhibit 1, page 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 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.

Adult Services Manual (ASM 363) 9-1-2008, addresses when Home Help Services can be authorized:

APPLICATION FORSERVICES

The client must sign the DHS-390, Adult Services Application (RFF 390) to receive independent living services. An authorized representative or other person acting for the client may sign the DHS-390, **if** the client:

- Is incapacitated.
- Has been determined incompetent.
- 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 DHS-390 on behalf of the client.

The ILS specialist must determine eligibility within the 45 day standard of promptness which begins from the time the referral is registered on the computer system. The computer system calculates the 45 days beginning the day after the referral date and counting 45 calendar days. If the due date falls on a weekend or holiday, the due date is the next business day. A referral may be received by phone, mail or in person and must be registered on the computer timely.

Note: When a signed DHS-390, Adult Services Application serves as the initial request for services, the registration date must be the date the DHS-390 was received in the local office.

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

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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 client in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client'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 department record.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

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ELIGIBILITY FOR HOME HELP SERVICES

Home help services (HHS) are defined as those which the department 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 deductible obligation has been met.

The client must have a scope of coverage of:

- 1F or 2F, **or**
- 1D or 1K (Freedom to Work), **or**
- 1T (Healthy Kids Expansion).

Clients with eligibility status 07 (Income scale 2-Non MA) and scope of coverage 20 or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

An ILS case may be opened (service program 9) to assist the client in becoming MA eligible. However, do **not** authorize HHS payment prior to the MA eligibility date. The payment must be prorated if the eligibility period is less than the full month. To prorate, divide the monthly care cost by the number of days in the month. Then, multiple that daily rate by the number of eligible days.

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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.

Exception: DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

If the medical needs form has not been returned, the adult services worker should follow-up with the client and/or medical professional.

> If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.
>
> Do **not** authorize HHS prior to the date of the medical professional signature on the DHS-54A.
>
> *Adult Services Manual (ASM 363), 9-1-2008 Pages 1 – 9*

In the present case, the Appellant's initial request for Home Help Services was received in [redacted]. (Exhibit 1, page 9) Based on the case notes, neither a signed application nor complete DHS 54-A Medical Needs form was received before the Appellant moved from [redacted]. (Exhibit 1, page 10) When the case was transferred to a different worker, an attempt to complete the required home call was made in [redacted]. (Exhibit 1, pages 6-8) The worker testified that the woman at the home stated no person with the Appellant's name lived there. The worker stated that he closed the case because he did not have a way to contact the Appellant and it was well past the 45 day standard of promptness.

The Appellant's representative explained that they had done everything they could from their end regarding the Home Help Services Application. The Appellant's representative testified that they had the doctor complete multiple DHS 54-A Medical Needs forms, which were either not received or were received and then misplaced by the Department. Based on the workers testimony, it appears the worker made the home visit attempt to the wrong apartment at the [redacted] address as there are east and west portions of the street with the same address number. The Appellant's representative also testified that she left messages in response to the worker's home call letter requesting a new date because the Appellant was going to be moving again. The Appellant's representative explained the move to [redacted] was only temporary. The Appellant's representative stated that she did not receive a response to these messages.

Upon review of the evidence in this case, it is clear that there were communication problems regarding the Appellant's Home Help Services case despite the efforts made by all parties. Department policy imposes a 45 day standard of promptness for determining eligibility, which begins from the time the referral is registered on the computer system. The Department was unable to open the Appellant's case between [redacted] well over the 45 day standard of promptness. Department policy requires a signed application, a DHS 54-A Medical Needs form signed by a Medicaid enrolled medical professional and a face to face contact with the client prior to authorizing Home Help payments. The case notes indicate that the DHS 54-A Medical Needs form received from the Appellant's physician was not complete, the signature page of the Adult Services Application was not returned, and the Department was unable to complete the required home visit.

At the hearing the Appellant's representative testified that the Appellant moved back to [redacted] in February and is at a permanent address. The Department indicated they would take a new referral for the Home Help Program and begin the process of determining the Appellant's eligibility.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the closed the Appellant's Home Help Services case.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 6/2/2010

***** 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.