# 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:

Appellant /
DECISION AND ORDER
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 <i>et seq.</i> , upon the Appellant's request for a hearing.
After due notice, a hearing was held on her own behalf.  Appellant.  Appellant.  Appellant.  Adult Services Worker, and Supervisor, were present as Department witnesses.  Adult Services Supervisor.
<u>ISSUE</u>
Did the Department properly determine the effective date of Home Help Services payments to the Appellant?
FINDINGS OF FACT
The Administrative Law Judge, based upon the competent, material and substantia evidence on the whole record, finds as material fact:
<ol> <li>On DHS 54-A Medical Needs form with the Department of Human Services. (Exhibit 1, pages 8-10)</li> </ol>
<ol> <li>The DHS 54-A Medical Needs form certifying that the Appellant had a medical need for assistance with personal care activities was signed by the physician or . (Exhibit 1, page 10)</li> </ol>
3. On visit and comprehensive assessment of the Appellant's case. (Exhibit 1, pages 4-5)

# Docket No. 2010-25083 HHS Hearing Decision & Order

- 4. On the worker issued a Services and Approval Notice to the Appellant indicating that her Home Help Services (HHS) payments were approved for with a start date of the worker issued a Services and Approval Notice to the Services (HHS) payments were with a start date of the services (Exhibit 1, pages 3-4)
- 5. On section of the State Office of Administrative Hearings and Rules received the Appellant's Requests 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 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.

# Docket No. 2010-25083 HHS Hearing Decision & Order

**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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#### **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:

# Docket No. 2010-25083 HHS Hearing Decision & Order

- 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.

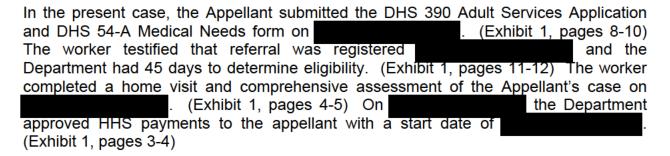
The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

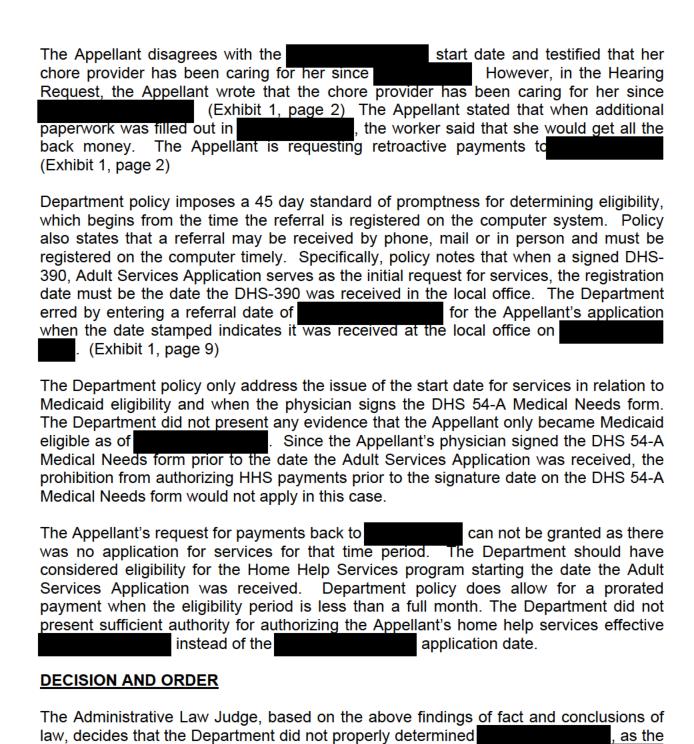
If the medical needs form has not been returned, the adult services worker should follow-up with the client and/or medical professional.

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





effective date of Home Help Services payments for Appellant's

application.

## IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED. The Department shall issue a retroactive HHS payment to the Appellant for the part of should have been found eligible for services. The HHS payment shall be prorated to allow for eligibility effective.

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

cc:

Date Mailed: 5/28/2010

## \*\*\* 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.