

**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. 2010-25683 HHS
Case No. [REDACTED]

[REDACTED],
Appellant

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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's sister and paid chore provider, appeared on behalf of the Appellant. The Appellant was also present.

[REDACTED], Appeals Review Officer, represented the Department (DHS). [REDACTED], DHS Adult Services Worker; [REDACTED], DHS Adult Services Supervisor; appeared as witnesses for the Department.

ISSUE

Did the Department properly pro-rate the Appellant's Home Help Services (HHS) payment to the day of the month Appellant meets his spend-down, beginning March 2010?

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 HHS. (Exhibit 1, pages 13-14).
2. In [REDACTED], the Appellant had a monthly deductible (Medicaid spend-down) that needed to be met in order for Appellant's Medicaid to be active. (Exhibit 1 page 13).
3. In [REDACTED], the Appellant's HHS worker noted that Appellant's monthly deductible (Medicaid spend-down) was not always met on the first of that month. (Exhibit 1 page 23).

4. In ██████████, the Appellant's HHS worker noted that Appellant's Medicaid scope of coverage was 20 at the start of the month and changed to 2F on the date of the month his deductible was met, and therefore, his Medicaid became active. (Exhibit 1 pages 22, 23).
5. On or around ██████████, the Department of Human Services "ASCAP" computer database automatically pro-rated HHS payments to the date a Medicaid spend-down is met. (Exhibit 1 pages 22, 23).
6. On ██████████, the Department mailed the Appellant an advance negative action notice indicating his Medicaid-funded adult home help chore services payment would be reduced because, "We are now pro rating the provider grant amount, to reflect when ██████████ meets his spend-down for the month." (Exhibit 1 page 4).
7. On ██████████, the Department received Appellant's Request for Hearing filled out and signed by his sister/chore provider. (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.

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.

The client must have a scope of coverage of:

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

* * * * *

Clients with...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...to assist the client in becoming MA eligible. However, do not authorize HHS payment prior to the MA eligibility date. (Underline added).

The Department must implement its programs in accordance with its policies. The Department policy listed immediately above mandates that a person with a scope of coverage 20 must meet the monthly spend-down to activate his Medicaid eligibility, in order to receive payment for home help services.

The Department witness adult services worker testified that in early ██████████ the ██████████ computer program automatically pro-rated HHS payments to the date a Medicaid spend-down is met. (Exhibit 1 pages 22, 23). The Department witness adult services worker testified that the Appellant's scope of coverage changed in the computer database from 20 to 2F depending on the date a monthly deductible was be met. 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 days of the month he had not met his deductible.

The Appellant's sister/chore provider testified that the spend-down is met on the beginning of the month but the medical suppliers won't send a bill for Appellant's medications and albuterol breathing treatment items until the 18th of the month. Because the written notifications are not received in the Department of Human Services (DHS) until the end of the month the Medicaid database does not show eligibility. The Appellant's sister/chore provider testified that it is not fair that she is paid for only part of the month because she provides the services all month.

The Department presented evidence that beginning in ██████████, Appellant's Medicaid was not active until after the day each month that his spend-down was met.

Based upon a preponderance of evidence at the time of hearing, the Appellant was not eligible for Medicaid home help services payment until the day of the month he met his spend-down.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly pro-rated the Appellant's Home Help Services (HHS) payment to the day of the month Appellant met his spend-down, beginning [REDACTED].

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: 6/28/2010

***** 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.