

**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. 2010-29302 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 [REDACTED]. [REDACTED] appeared on his own behalf. [REDACTED], Appeals and Review Officer, represented the Department. [REDACTED], Adult Services Worker (ASW), appeared as a Department witness.

**ISSUE**

Did the Department properly suspend 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. The Appellant is a [REDACTED] Medicaid beneficiary who was receiving adult Home Help Services.
2. On [REDACTED] the ASW met the Appellant for the first time and gave him a DHS 721 Provider Log form, which covered the months of [REDACTED], [REDACTED] and [REDACTED], in case his application for services was approved. (ASW Testimony and Exhibit 1, page 5)
3. On [REDACTED] the ASW mailed the Appellant a Services and Approval Notice as well as additional provider log forms to cover the months from [REDACTED] through [REDACTED]. (ASW Testimony and Exhibit 1, page 5)

4. The Appellant did not receive the additional provider log forms that the ASW mailed to him on [REDACTED]. (Appellant Testimony)
5. The Appellant completed and returned the first provider log form for the months of [REDACTED], [REDACTED], and [REDACTED]. (ASW Testimony)
6. On [REDACTED], the ASW completed the home visit for the annual review of the Appellant's case and discussed the missing provider logs, covering the months from [REDACTED] through [REDACTED], with the Appellant, who stated he would check with his chore provider to see if she had them. The ASW also provided the Appellant with additional provider log forms for the next year, [REDACTED] through [REDACTED]. (ASW and Appellant Testimony)
7. The ASW attempted to call the Appellant and chore provider because she had not heard back from either of them regarding the missing provider logs, but the phone numbers were not working. (ASW Testimony)
8. On [REDACTED], the ASW issued an Advance Negative Action Notice to the Appellant indicating that his HHS case would be suspended effective [REDACTED], because he and the chore provider failed to return provider logs as of [REDACTED]. (Exhibit 1, pages 5-7)
9. The Appellant requested a formal, administrative hearing contesting the suspension on [REDACTED]. (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 physician and may be provided by individuals or by private or public agencies.

Adult Services Manual (ASM 363) 9-1-2008, pages 16-18 of 24 addresses the requirement for submitting provider logs:

#### **Provider Interview**

Explain the following points to the client and the provider during the initial interview:

- The provider is employed by the client **not** the State of Michigan.
- A provider who receives public assistance **must** report all income received as a home help provider to the FIS/ES.
- The client is the employer and has the right to hire and fire the provider.
- The client is responsible for notifying the worker of any change in providers or hours of care.
- The services the provider is responsible for and has agreed to deliver including the frequency, amount and type of service.
- The provider **must** keep a log of the services provided Personal Care Services Provider Log (DHS-721) and submit it on a quarterly basis. The client **must** sign the Authorization for Withholding of FICA Tax in Home Help Payments (DHS-4771).
- All earned income must be reported to the IRS. (See [www.irs.gov/](http://www.irs.gov/))
- The client **and** provider **must** sign the Home Help Services Statement of Employment (MSA-4676).

**Note:** Providers considered as a business are exempt from signing the MSA-4676.

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### **Personal Care Services Provider Log (DHS-721)**

Each provider must keep a log of home help service provided. The DHS- 721 is used for this purpose.

Indicate on the log which tasks the provider is approved to do based on the client's HHS plan.

The provider must indicate what services were provided and on which days of the month.

The client and the provider must sign the log when it is completed to verify that the services approved for payment were delivered.

The log must be submitted to the local office at least quarterly.

**The adult services worker must initial and date the log upon receipt.**

Retain the log in the client's case record.

A separate log is required for each provider.

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Other types of logs such as billings for services by agencies are acceptable in lieu of the DHS-721. Each bill must specify the service provided and the date(s) of service.

Adult Services Manual (ASM 363) 9-1-2008,  
Pages 16-18 of 24

The Adult Services Manual addresses the fact that the chore provider must keep a log of services provided, the DHS 721 Personal Care Services Provider Log, and submit the log to DHS on a quarterly basis. In this case, the ASW gave the Appellant one provider log at their initial meeting in case he was approved for services. It is uncontested that the Appellant completed and returned this provider log, which covered the months of ██████████, ██████████, and ██████████. The Appellant credibly testified that he did not receive the additional provider logs, covering the months from ██████████ through ██████████, which the ASW mailed to him ██████████. However, there was no evidence presented that the Appellant contacted the ASW to request additional provider log forms to complete for ██████████ and subsequent months or that an alternative log of services was completed to meet the requirement of submitting quarterly logs.

In ██████████, the ASW completed the home visit for the annual case review and gave the Appellant additional provider logs for the next year, ██████████ through ██████████. The ASW testified she also discussed not receiving the required provider logs for ██████████ and subsequent months with the Appellant, who stated that he would check with his chore provider to see if she had the logs. The ASW credibly testified that neither the Appellant nor his chore provider contacted her after the home visit. The ASW stated that she tried to call the Appellant and his core provider but their phone numbers were not working. Since there was no contact from the Appellant or chore provider, and no provider logs had been submitted for ██████████ or any subsequent month, the ASW issued the ██████████ Advance Negative Action Notice to the Appellant indicating his HHS would be suspended effective ██████████. (Exhibit 1, pages 5-7)

In this case, the policy is clear; the provider is required to keep a log of services provided, Personal Care Services Provider Log, and submit it to the DHS on a quarterly basis. The Department properly suspended the Appellant's Home Help Services case as no provider logs were submitted for the ██████████ or any subsequent month. While the Appellant credibly testified he did not receive the provider log forms the ASW mailed ██████████, there is no evidence that he made any attempt to request forms from the ASW to meet the quarterly submission requirement. The ASW notified the Appellant she had not received the required provider logs for ██████████ forward at the ██████████ home visit, and made reasonable efforts to contact the Appellant subsequent to the home visit.

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During this hearing, the ASW stated she would re-print provider logs for the months of [REDACTED] through [REDACTED], and give them to the Appellant. The ASW further stated that when the provider logs for the missing months are completed and returned, she would lift the suspension on the Appellant's case.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly suspended home help services payments to the Appellant because the required provider logs had not been submitted.

**IT IS THEREFORE ORDERED** that:

The Department's decision is **AFFIRMED**.

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Colleen Lack  
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.