

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2010-41138 HHS

Case No. ██████████

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 ██████████.

██████████ appeared on her own behalf. ██████████, was present.

██████████, represented the Department. The Department's witness was ██████████. ██████████ was present.

ISSUE

Did the Department improperly fail to authorize Adult Services payment to the Appellant and her provider for the month of ██████████?

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 Medicaid beneficiary who was formerly a SSI recipient.
2. The Appellant was a participant in the Home Help Services (HHS) program, through the Department of Human Services.

3. The Appellant had her SSI benefits discontinued in the [REDACTED]. She thereafter re-applied for Medicaid.
4. The date the Appellant re-applied for Medicaid coverage is undetermined at the time her HHS hearing was convened.
5. The Appellant's full coverage Medicaid ended [REDACTED]. It was reinstated effective [REDACTED]. (Department Exhibit A, page 9)
6. The Appellant's HHS payment was not authorized when she did not have full coverage Medicaid, in [REDACTED].
7. The Department received a request for hearing contesting the failure to authorize HHS payment for [REDACTED] on [REDACTED].

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.

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 customer must be eligible for Medicaid in order to receive these services.

Home Help Services (HHS) Payment related independent living services are available if the client meets HHS eligibility requirements. Clients who may have a need for HHS should be assisted in applying for Medicaid (MA). Refer the client to an eligibility specialist. Cases pending MA determination may be opened to program 9 (ILS). HHS eligibility requirements include all of the following:

- The client must be eligible for Medicaid.
- Have a scope of coverage of:
 - 1F or 2F,
 - 1D or 1K, (Freedom to Work), **or**
 - 1T (Healthy Kids Expansion).
- The client must have a need for service, based on

- Client choice, **and**
- Comprehensive Assessment (DHS-324) indicating a functional limitation of level 3 or greater in an ADL or IADL.
- Medical Needs (DHS-54A) form signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:
 - Physician.
 - Nurse practitioner.
 - Occupational therapist.
 - Physical therapist.

ASM 362, 12-1-2007

Medicaid/Medical Aid (MA)

Verify the customer's Medicaid/Medical aid status.

The customer 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) 9-1-2008

The material facts are in dispute. The Appellant asserts she did have full coverage Medicaid in [REDACTED] and cited the fact she had visited doctors and picked up prescriptions during that month. She did not have any documents to support the assertion that she had full coverage Medicaid effective for the month of [REDACTED]. Her HHS payments are contingent upon having an open Medicaid case.

The Department presented documents demonstrating that the Appellant did have Medicaid coverage prior to and until [REDACTED]. Then she did not have any Medicaid coverage for the month of [REDACTED]. Her Medicaid coverage was active again effective [REDACTED]. While the reasons for the lapse in full Medicaid coverage were not established at this hearing, this ALJ does not have authority to address the issue of Medicaid eligibility at this hearing. While this ALJ finds the Appellant is credible in asserting she visited doctors and picked up prescriptions during [REDACTED], this does not establish she had full Medicaid coverage with the appropriate scope of coverage during [REDACTED]. She may have had coverage under the Adult Medical program or her provider(s) may have mistakenly provided services that were not, in fact covered. In either event, the documentary evidence of Department records is relied on

by this ALJ to find the Appellant did not have full coverage Medicaid during [REDACTED]. The Appellant was advised to take up the issue (of the effective date her Medicaid was reinstated) with her eligibility services worker. This ALJ is sympathetic to the Appellant's position and would like to be able to authorize payment to her provider for the much needed services she performed in good faith in [REDACTED], however, this ALJ lacks the authority to do so under the facts and controlling policy of this case. The Adult Services Worker is not able to authorize a payment for a month where the Department records do not show full Medicaid coverage with a specified scope of coverage.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly restored the Home Help Services payment effective [REDACTED].

IT IS THEREFORE ORDERED that:

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

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 9/9/2010

***** 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.