

**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. 2010-51266 HHS
[REDACTED]

[REDACTED]
Appellant
_____ /

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 her own behalf. [REDACTED], son, appeared as a witness for the Appellant. [REDACTED] Appeals Review Officer, represented the Department. [REDACTED] Adult Services Worker, and [REDACTED] Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services (HHS) payments?

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 receiving HHS payments from the Department.
2. On [REDACTED] the Appellant called to report that her HHS chore provider quit. (Exhibit 1, page 8)
3. The Appellant's HHS payments stopped effective [REDACTED] (Exhibit 1, page 9)
4. On [REDACTED] the Appellant and her son went to the local office to have him enrolled as the Appellant's new HHS chore provider, but the Appellant's son did not have current identification. (Exhibit 1, page 8)
5. Department policy requires positive identification by means of a picture ID. (Adult Services Manual (ASM) 363, 9-1-2008, page 18 of 24)

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6. The Appellant's son needed to order a birth certificate so that he could get a current ID. (Son Testimony)
7. On [REDACTED], a money order was obtained to pay for the birth record. (Exhibit 1, page 4)
8. There were unexpected delays in obtaining the Appellant's birth certificate by mail. (Son Testimony)
9. The Appellant's son eventually drove to [REDACTED] to obtain a copy of his birth certificate. (Son Testimony)
10. The Appellant's son applied for an ID and has a temporary while waiting for the ID to arrive in the mail. (Son Testimony)
11. On [REDACTED], the Appellant's HHS case was assigned to a new Adult Services Worker (ASW). (ASW Testimony)
12. On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that her Home Help Services payments would terminate effective [REDACTED] because "no provider enrolled, no services being provided payments stopped [REDACTED]." (Exhibit 1, pages 5-7)
13. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (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 Social Welfare Act, 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 item 363 addresses HHS provider enrollment and payment authorization:

Provider Enrollment

Home help providers **must** be enrolled on the Model Payments System (MPS) prior to payment authorization. See the [ASCAP user guide](#) on the adult services home page for directions on enrolling a provider.

Home Help Services Statement Of Employment (MSA-4676)

The purpose of the Home Help Services Statement of Employment (MSA-4676) is to serve as an agreement between the client and provider which summarizes the general requirements of employment. The form is completed by the adult services worker as part of the provider enrollment process.

An employment statement must be signed by **each** provider who renders service to a client.

The statement:

- Confirms an understanding of the personal care services provided, how often services are provided, and wages to be paid.
- Requires positive identification of the provider by means of a picture ID.
- Documents an understanding by both parties that the client, not the State of Michigan, is the employer of the provider.
- Stipulates that the client must report any changes in the work schedule to the adult services worker.
- Instructs the provider to repay the State of Michigan for services he or she did not provide.
- Informs the provider that a Personal Care Services Provider Log (DHS-721) must be completed and returned to the worker on time to avoid delay in payment.
- Informs a provider receiving public assistance that this employment will be reported to the Department of Human Services.
- The client and provider must sign the MSA-4676 statement indicating their understanding of the terms of the agreement.

Distribution of Employment Statement

- The adult services worker will make **two copies** of the completed and signed form.
- Give one copy to the client and one to the provider.
- Place the **original** form in the client's case record.

PAYMENT AUTHORIZATION **Payment Authorization System**

Enter home help provider enrollments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS provider database. See the ASCAP user guide on the [adult services home page](#).

HHS payments to providers must be:

- Authorized for a specific type of service, period of time and payment amount.
- Authorized to the person actually providing the service.
- Made payable jointly to the client and the provider.

Any payment authorization that does **not** meet the above criteria must have the reason fully documented in the **Payments** module, exception rationale box, in **ASCAP**. The supervisor will document through the electronic approval process.

Adult Services Manual (ASM 363) 9-1-2008, Pages 18-19 of 24

On ██████████, the Appellant called the Department to report that her HHS chore provider quit because he obtained permanent employment. On ██████████, the Appellant and her son went to the local Department office to have him enrolled as the new HHS chore provider. The Appellant's son could not be enrolled at that time because he did not have a current ID, but was to mail in a copy as soon as he had one. (Exhibit 1, page 8) A new Adult Services Worker (ASW) was assigned to the Appellant's case in ██████████. She reviewed the Appellant's case on ██████████, and issued the termination notice because there was no enrolled provider and payments had stopped effective ██████████. (ASW Testimony and Exhibit 1, pages 9)

The Appellant disagrees with the termination and feels her son should be compensated for the work he has been doing. (Appellant Testimony) The Appellant and her son credibly testified that a birth certificate was required to apply for a current ID and that there were unexpected delays in ordering a birth certificate by mail. Eventually, the

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Appellant's son drove to Lansing to obtain a birth certificate, and then applied for an ID. As of the [REDACTED] hearing date, the Appellant's son was waiting for his ID to arrive in the mail only had a temporary ID. (Son Testimony)

Department policy in this area is clear. Positive identification of the provider by means of a picture ID is required. Further, HHS payments can not be authorized until after the provider is enrolled. It is uncontested that the Appellant's son did not have a current ID on [REDACTED], when he went to the local office to be enrolled as the Appellant's HHS chore provider or by the time the [REDACTED] Advance Negative Action Notice was issued. The Appellant did not choose any other person to be enrolled as her HHS provider during this time. The Department can not be ordered to issue HHS payments for a time when there was no enrolled HHS provider. The Department's determination to terminate the Appellant because she had not had an enrolled provider for four months and had not received HHS payments since [REDACTED] is upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated the Appellant's HHS payments.

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:



Date Mailed: 11/15/2010

***** NOTICE *****

The State Office of Administrative Hearings and Rules March 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 March 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.