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. 2010-893 HHS
Case No

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 Thursday, . The Appellant appeared without representation.[1] He had no witnesses. , appeals review officer, represented the Department. Her witness was ASW supervisor and

PRELIMINARY MATTER

At hearing the ALJ took the admission of two documents under advisement. Appellant's proposed Ex. #2 consisted of ancient or post petition MI care notes and assessments not relevant to the issue of continued receipt of HHS. The Appellant's proposed exhibit #2 was not admitted. Department's proposed Exhibit B was another 54A executed by on , verifying no medical need for assistance. Department's Exhibit B is hereby admitted and afforded significant weight.

ISSUE

Did the Department properly terminate Home Help Services 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 was questioned on this point by the ALJ and he indicated his desire to proceed without the services of his advocate.

1) The Appellant is a ear Medicaid beneficiary. (Appellant's Exhibit #1)

2) The Appellant alleges disability in the form of nerve damage, closed head injury, low back pain, DM, HTN, high cholesterol anxiety/depression, and cognitive disorder. (Appellant's Exhibit #1 and Department's Exhibit A, p. 12)

3) The Appellant testified that he needs assistance because he is totally disabled and that he never had such problems receiving HHS until he moved into the service area. (*See* Testimony of Appellant)

4) The Appellant said that they don't understand and that his multiple denials on 54 A were in error. (Appellant's Exhibit #1)

5) The physician, ( ) on and did not certify the Appellant for assistance with personal care. (See Department's Exhibit A, p. 7 and Department's Exhibit B)

6) On , the ASW sent the Appellant an Adequate Negative Action Notice (DHS1212-A) advising him that further home help services (HHS) would be denied effective , because his physican failed to certify medical necessity for services. (Department's Exhibit A, pp. 2, 5, 7 and Department's Exhibit B)

7) The request for hearing on the instant appeal was received by SOAHR on

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.

COMPREHENSIVE ASSESSMENT

> The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will be entered on the computer program.

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the customer in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer's social security card.
- Observe a picture I.D. of the caregiver, if applicable.
- The assessment must be updated as often as necessary, but minimally at the six-month review and annual re-determination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the agency record.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

Adult Service Manual (ASM), §363, page 2 of 24, September 1, 2009.

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- 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. <u>The client is responsible for obtaining the medical certification of need.</u> 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. ASM *Supra* page 9 of 24.

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The Department witness testified that she checked the Appellant's file for his pending review and found that his physician had not certified him as a person in need of personal care. Without that proof she terminated services sending the Appellant appropriate notice and appeal rights information.

The Appellant testified that he has medical proof and is totally disabled.

On review the Appellant's appeal must fail because he had no relevant supporting documentation demonstrating medical necessity at the time of his assessment]. His medical data was several years old[2] or obtained just days before the hearing. Absent the medical certification the ASW was correct to terminate the Appellant's HHS benefit.

If the new data represents a change in condition for the Appellant - he is free to reapply for HHS benefits without having his file closed so long as he does not exceed the 90-day time limit and obtains the required medical certification – which so far refuses to sign.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated the Appellant's HHS for lack of a medical certification.

[2] This information was in the form of mental health case notes.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

Date Mailed: 12/23/2009

***** 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.