

**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. 2010-16663 HHS
Case No. 67136844

██████████
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 ██████████. ██████████ appeared on his own behalf. ██████████, represented the Department of Community Health (DCH or Department). ██████████, appeared as a witness for the Department. ██████████, was also present.

ISSUE

Did the Department properly suspend Appellant's Home Help Services?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a ██████████. (Exhibit 1, page 7).
2. Appellant is a Medicaid beneficiary.
3. Since at least ██████████ Appellant was enrolled in the Department of Human Services (DHS) Home Help Services (HHS) program. (Exhibit 1, page 7).
4. Prior to ██████████, the Appellant's DHS-enrolled chore provider was his sister, ██████████. (Exhibit 1, page 12). Appellant lives in an apartment with his sister/HHS chore provider. (Exhibit 1, page 7).
5. By ██████████ the Appellant's Adult Services Worker (worker) noticed that the Appellant and his DHS HHS chore provider had not provided any provider logs to DHS for at least nine months.

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6. On [REDACTED], the Department sent a Negative Action Notice notifying Appellant that his HHS payment was being suspended due to failure to home help provider logs. (Exhibit 1, pages 5-6).
7. On [REDACTED], the State Office of Administrative Hearings and Rules (SOAHR) received Appellant's Request for Hearing. (Exhibit 1, pages 3-5).

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 (ASM 363 9-1-2008), pages 16-17 of 24 addresses when HHS payments can be authorized, notification of changes, and that payment can be suspended if client and provider do not properly submit provider logs:

Provider Interview

Explain the following points to the customer 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 (FIA-721) and submit it on a quarterly basis. The client **must** sign the Authorization for Withholding of FICA Tax in Home Help Payments (FIA-4771).

- The client **and** provider **must** sign the Home Help Services Statement of Employment (MSA-4676).

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.

(Underline added by ALJ).

The Department must implement the Home Help Services program in accordance to Department policy. The DHS worker testified that DHS policy prohibited HHS payment without quarterly submission of provider logs. In [REDACTED], the Appellant's DHS worker noticed that the Appellant and his DHS/HHS chore provider had not provided any provider logs to DHS for at least nine (9) months. The DHS Adult Services Worker informed the Appellant that he would need to submit chore provider logs, but only two (2) logs were provided.

The Appellant testified that his sister/HHS chore provider worked another job and was too tired when she got home to fill out the provider logs. The Appellant also stated that he decided he did not want his sister, [REDACTED], to be his chore provider any longer and instead wanted another sister to be his HHS chore provider. The Appellant said his other sister had not yet enrolled to be a HHS chore provider.

The Department established that unless a client and HHS provider submit provider logs with DHS, HHS payments can be suspended. The Department further established that no Home Help Services payment can be issued if no provider is enrolled.

The Appellant bears the burden of proving by a preponderance of evidence that all provider logs were submitted but failed to meet that burden.

For the above reasons, it is decided that the Department acted properly and in accordance with policy when it suspended Appellant's HHS services.


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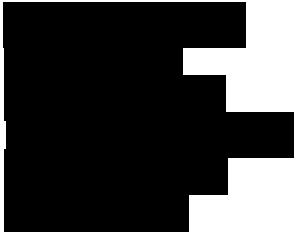
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly suspended Appellant's Home Help Services.

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:



Date Mailed: 3/3/2010

***** 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.