

**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. 2010-29306 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 on [REDACTED]. The Appellant appeared without representation. His witness was his spouse, [REDACTED]. [REDACTED], appeals review officer, represented the Department. Her witnesses were [REDACTED], Adult Services Worker (ASW), and [REDACTED], ASW supervisor.

ISSUE

Did the Department properly deny the Appellant Home Help Services (HHS) for lack of eligibility?

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]-year-old Medicaid beneficiary. (Appellant's Exhibit #1)
- 2) The Appellant alleges the afflictions of kidney disease and emphysema. (Appellant's Exhibit #1)
- 3) On [REDACTED], a services negative action notice was sent to the Appellant informing him that services would be denied because the Department had not received the required [completed] application and medical needs form. (Department's Exhibit A, p. 2)
- 4) The Department witness testified that she sent the application and the DHS 54A form on or about [REDACTED]. (Department's Exhibit A, p. 6)

- 5) The documents were never completed or returned to the Department. See Testimony of Armstrong.
- 6) The Appellant testified that the Department's witness terminated services over the telephone to him and his spouse (witness ██████████). See Testimony of ██████████.
- 7) The ASW testified that she was explaining Department policy regarding in home care by a responsible relative or spouse. See Testimony.
- 8) The Appellant then testified that he received the required documents in the mail "the next day" and did not forward them because he felt that common sense dictated the futility of that process.
- 9) On ██████████, the instant appeal was received by SOAHR. (Appellant's Exhibit #1)

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 medical professional.

GENERAL SERVICES REQUIREMENTS

The client must sign an Adult Services Application (DHS-390) to receive ILS. An authorized representative or other person acting for the client may sign the DHS-390 if the client:

- Is incapacitated, **or**
- Has been determined incompetent, **or**
- Has an emergency.

A client unable to write may sign with an "X", witnessed by one other person (e.g., relative or department staff). Adult services workers must not sign the services application (DHS-390) for the client. Eligibility must be determined within 45 days of the signature date on the DHS-390.

....

Adult Services Manual, (ASM) §362, December 1, 2007

While, the Adult Service Manual requires knowledge of applicant status for HHS eligibility – the only issue in dispute today was the lack of a medical needs form (DHS54A).

...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.

Supra § 362

Department witness ASW ██████████ explained that neither the application (DHS390), nor the medical needs form was returned to the Department. The Appellant verified that omission at hearing claiming that the Department denied services “over the phone” owing to marital status.

No materials were returned to the Department from the Appellant or his spouse.

██████████ said she was explaining further policy requirements which prohibit authorization for services when there exists a responsible/legal dependent who is able and available to perform such services for the Applicant. Department Policy includes a spouse as responsible relative. See ASM 363 and Adult Services Glossary

The Appellant did not preponderate that the Department erred in the determination of his eligibility for HHS based on the record established at hearing. Accordingly, I find that the denial of HHS was correctly decided within established policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant HHS owing to lack of eligibility.

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:

[REDACTED]

Date Mailed: 7/9/2010

***** 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.