

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

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 2010-33864 HHS

██████████

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 her own behalf. ██████████, Appeals and Review Officer, represented the Department. ██████████, Adult Services Worker, was present as a Department witness.

ISSUE

Did the Department properly close the Appellant's Home Help Services case?

FINDINGS OF FACT

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

1. On ██████████, Department issued an Independent Living Services introduction letter, a DHS 390 Adult Services Application and a DHS 54-A Medical Needs form to the Appellant in response to her telephone call requesting home help services. (Exhibit 1, pages 4-5)
2. Department Policy requires a signed Adult Services Application (DHS 390) and a Medical Needs (DHS 54-A) form signed and dated by a Medicaid enrolled medical professional certifying the medical need for personal care services. *Adult Services Manual (ASM) 362, 12-1-2007, pages 1-2 of 5. Adult Services Manual (ASM) 363, 9-1-2008, pages 1 and 9 of 24.*

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3. The Department did not receive the Adult Services Application or a Medical Needs form back from the Appellant or her doctor. (Adult Services Worker Testimony)
4. On [REDACTED], the Department closed the Appellant's pending HHS case. (Adult Services Worker Testimony and Exhibit 1, page 7)
5. On [REDACTED], the Department sent another copy of the DHS 390 Adult Services Application and DHS 54-A Medical Needs form to the Appellant. (Exhibit 1 pages 5-6)
6. The Department has yet to receive an Adults Services Application or a Medical Needs form back for the Appellant's case. (Adult Services Worker Testimony)
7. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit 1, page 3)

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 health professional and may be provided by individuals or by private or public agencies.

Adult Services Manual (ASM 362) 12-1-2007, addresses when Home Help Services can be authorized:

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.

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.

*Adult Services Manual (ASM 362),
12-1-2007 Pages 1 and 2 of 5.*

Adult Services Manual (ASM 363) 9-1-2008, also addresses when Home Help Services can be authorized:

APPLICATION FOR SERVICES

The client must sign the DHS-390, Adult Services Application (RFF 390) to receive independent living services. An authorized representative or other person acting for the client may sign the DHS-390, **if** the client:

- Is incapacitated.
- Has been determined incompetent.
- 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 DHS-390 on behalf of the client.

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. The client is responsible for obtaining the medical certification of need. 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.

*Adult Services Manual (ASM 363),
9-1-2008 Pages 1 and 9 of 24.*

In the present case, the Appellant's initial request for Home Help Services was received by telephone on ██████████. (Exhibit 1, page 4) That same date, the Department sent an Independent Living Services introduction letter, a DHS 390 Adult Services Application and DHS 54-A Medical Needs form to the Appellant. (Exhibit 1, page 5)

The Appellant testified that she gave the forms to her doctor to complete, who returned them to the Department in ██████████. The Adult Services worker credibly testified that the Department did not receive these forms from the Appellant's doctor. It is also noted that the Appellant needed to sign the Adult Services Application and her testimony did not indicate that she signed any forms she gave to her doctor to complete

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and return to the Department.

The Appellant later testified that she completed the paperwork and put it in the Department's drop box. The Appellant stated that the Department often loses paperwork submitted in the drop box. However, it was not clear which set of forms the Appellant placed in the Department's drop box and when she submitted them. There are several Department programs the Appellant has applied for or participates in and each program has different required forms and may have different workers assigned to the Appellant's case. The Adult Services Worker testified that she has yet to receive an Adult Services Application or Medical Needs for the Appellant.

The above cited Department policy requires a signed Adult Services Application (DHS 390) as well as a Medical Needs (DHS 54-A) form signed and dated by a Medicaid enrolled medical professional certifying the medical need for personal care services. The Adult Services Worker explained that the Appellant's case was closed on March 10, 2010 as neither of the required forms was submitted to the Department.

Closing out the referral in ██████████ does not mean that the Appellant can never be considered for the Home Help Services program. The Appellant can contact the Department again or submit an Adult Services Application at any time to be considered for the Home Help Services program. The Department even sent the Appellant another copy of the Adult Services Application (DHS 390) and Medical Needs (DHS 54-A) form on ██████████, so that she could reapply. (Exhibit 1, page 5) Further, the Adult Services Worker indicated she would take a new referral for the Home Help Services program and provide another copy of the required forms after the hearing proceedings concluded on ██████████.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly closed the Appellant's Home Help Services case on ██████████ as they had not received a signed Adult Services Application (DHS 390) or a Medical Needs (DHS 54-A) form signed and dated by a Medicaid enrolled medical professional certifying the medical need for personal care services.

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


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cc:



Date Mailed: 8/3/2010

***** 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.