

**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. 2010-36909 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 ██████████. Appellant ██████████ appeared on his own behalf.

██████████, represented the Department. ██████████
██████████; and ██████████ and ██████████,
██████████, appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Home Help Services (HHS) 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. Appellant is a ██████████ man. (Exhibit 1).
2. Appellant is legally blind. (Exhibit 1, page 3).
3. A condition for eligibility for home help services is certification of medical need by a health professional.
4. On ██████████, the Department printed a Department of Human Services medical needs form (54-A) to be filled out and signed by Appellant's physician. (Exhibit 1, page 6).
5. The ophthalmologist/ophthalmology clinic Appellant listed as his health

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professional filled out a medical needs form but indicated the Appellant had not been seen since [REDACTED], he did not follow up for his next annual appointment, and therefore there could be no certification of medical need for services. (Exhibit 1, pages 7, 8).

6. On [REDACTED], the Appellant's ASW sent an Adequate Action Notice notifying Appellant that his Home Help Services payments would be denied. The reason given was that the Appellant had no medical certification for assistance, and therefore did not meet eligibility criteria. (Exhibit 1, pages 4-6).
7. On [REDACTED], the Department received 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 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 agencies.

Adult Services Manual (ASM 363, 9-1-08), page 9 of 24 outlines the Department's policy regarding date of HHS authorization:

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:

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- Physician.
- Nurse practitioner.
- Occupational therapist.
- Physical therapist.

* * * * *

Do not authorize HHS prior to the date of the medical professional signature on the DHS-54-A.

According to Department policy, the DHS must deny an application for HHS if there is no medical professional certification of medical need. The ASW Worker testified that during the application process he noted the Appellant's ophthalmologist/ophthalmology clinic indicated the Appellant had not been seen since [REDACTED], he did not follow up for his next annual appointment and therefore the clinic could not certify a medical need for services. (Exhibit 1, pages 7, 8). Because the Appellant provided no signed medical needs form, the ASW Worker stated his application for Home Help Services had to be denied. Because the Appellant provided no medical certification for assistance the Department properly denied his application.

The Appellant testified that he was legally blind and needed Home Help Services. The Appellant stated he had Home Help Services in the past and his needs had not changed. The Appellant stated that because he is legally blind he cannot read the forms that the Department of Human Services sends to him. The Appellant further testified that in the past an ASW Worker would come to his home and help him with paperwork. The Appellant provided no DHS-54A medical needs form with medical professional certification for need of HHS-specific services. The Department responded that there are several ways they can assist the Appellant with obtaining a signed medical needs form if they know what type of assistance is needed.

The above Department policy is clear that HHS payment cannot be authorized prior to the date of signature of a health professional certifying medical need.

The Department policy at Adult Services Manual (ASM 363 9-1-2008), pages 16-17 of 24 supports the Department's position:

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.

The Appellant bears the burden of proving by a preponderance of evidence that the Department's denial was not proper. The Appellant did not provide a preponderance of evidence that the Department's denial was not proper. The Department must implement the

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Home Help Services program in accordance to Department policy. The Department provided sufficient evidence that it properly denied the Appellant's HHS payment authorization in accordance with Department 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 his 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:

[REDACTED]

Date Mailed: 8/18/2010

*** 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.