

**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. 2010-46413 HHS
[REDACTED]

[REDACTED]
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 [REDACTED]. [REDACTED] appeared on his own behalf. [REDACTED], Appeals and Review Officer, represented the Department. [REDACTED], Adult Services Supervisor, was present as a Department witness.

ISSUE

Did the Department properly terminate 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. The Appellant has been receiving Home Help Services since [REDACTED]. (Exhibit 1, page 10)
2. The Appellant's case was due for an annual review and a home visit was scheduled for [REDACTED]. (Adult Services Worker Testimony)
3. On [REDACTED], the Department issued a home call letter to the Appellant. (Exhibit 1, page 5)
4. On [REDACTED], the Appellant missed the home visit because he was attending a family member's funeral. (Exhibit 1, page 4)

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5. On [REDACTED], the Department sent the Appellant an Advance Negative Action Notice indicating his Home Help Services case would terminate effective [REDACTED] because he was not home for the scheduled appointment therefore the worker was unable to determine continuing eligibility. (Exhibit 1, pages 5-8)
6. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing with attached documentation of the funeral. (Exhibit 1, pages 3-4)

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 and 363), addresses Home Help Services reviews:

CONTACTS

The worker must, at a minimum, have a face to face interview with the client **and** care provider, prior to case opening, then every six months, in the client's home, at review and redetermination.

Adult Services Manual (ASM 362), 12-1-2007 Page 3 of 5.

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (FIA-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 client in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client'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 redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

REVIEWS

ILS cases must be reviewed every six months. A face-to-face contact is required with the client, in the home. If applicable, the interview must also include the caregiver.

Six Month Review

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.
- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan.
- Review of client satisfaction with the delivery of planned services.

Annual Redetermination

Procedures and case documentation for the annual review are the same as the six month review, with the following additions:

Requirements

- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- A new medical needs (DHS-54A) certification, if home help services are being paid.

Note: The medical needs form for SSI recipients will **only** be required at the initial opening and is no longer required in the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and then annually thereafter.

- A face-to-face meeting with the care provider, if applicable. This meeting may take place in the office, if appropriate.

*Adult Services Manual (ASM 363), 9-1-2008,
Pages 2 and 6-7 of 24*

There is no dispute between the parties that the Appellant was not available for the annual review home visit scheduled on ██████████. The Appellant testified there had been a sudden death in his family and provided documentation showing he was attending a funeral on ██████████. (Exhibit 1, page 4)

However, Department policy does not clearly support a termination of HHS payments based on a single unsuccessful attempt for a home visit. The Adult Services Manual states that HHS benefits may be suspended or terminated for any of the following reasons:

TERMINATION OF HHS PAYMENTS Suspend and/or terminate payments for HHS in **any** of the following circumstances:

- The client fails to meet any of the eligibility requirements.
- The client no longer wishes to receive HHS.
- The client's provider fails to meet qualification criteria.

Adult Services Manual (ASM 362 12-1-07), page 4 of 5

In the present case, the Adult Services Worker (ASW) testified she terminated the Appellant's HHS payments because she could not determine ongoing eligibility for services without completing the home visit. She explained that if the Appellant had called in to explain he was at a funeral, she would have re-scheduled the home visit. However, the termination notice the ASW issued three days after the scheduled home visit made no indication that the Appellant could call to reschedule the missed appointment. (Exhibit 1, pages 5-8) The Appellant testified that due to the sudden death in his family, he had forgotten about the scheduled home visit on ██████████

He further explained that he believed it was too late to call the Department to reschedule once he received the termination notice in the mail.

Rescheduling the home visit if the Appellant had called in to explain why he missed the appointment would have been consistent with a suspension of payments until the home visit could be completed. This would have been an appropriate action in the Appellant's case since no determination was made that the Appellant failed to meet the HHS eligibility requirements or that the provider failed to meet qualification criteria. No evidence was presented indicating the Appellant no longer wished to receive HHS. The Department only asserted that they could not determine ongoing eligibility without completing the home visit.

Upon review of the evidence in this case, the Department erred by terminating the Appellant's HHS payments based upon a single missed appointment. The Department's testimony indicated that they would have rescheduled the appointment if the Appellant had called in to explain why he was unavailable. Accordingly, a notice that payments would be suspended until the home visit could be completed should have issued instead of the termination notice. The Appellant credibly testified and provided documentation that he missed the appointment due to attending a family member's funeral the same date as the schedule home visit. The Department's determination to terminate the Appellant's Home Help Services case is reversed.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED. The Appellant's Home Help Services case shall be reinstated. The Department is ORDERED to schedule a home visit with the Appellant to complete a comprehensive assessment to determine ongoing eligibility for Home Help Services.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [REDACTED]

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Date Mailed: 10/22/2010

***** 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.