

**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. 2010-49927 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. ██████████
(ASW), appeared as a witness 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, page 7).
2. Appellant has a history of carpal tunnel syndrome and has arthritis in his left hand. (Exhibit 1, page 7).
3. A condition for eligibility for Home Help Services (HHS) is certification of medical need by a health professional.
4. On ██████████, an HHS application process was started for Appellant. (Exhibit 1, page 5).
5. On ██████████, the Department received a Department of Human Services

medical needs form (54-A) filled out and signed by Appellant's physician. (Exhibit 1, page 6).

6. Appellant's physician filled out a medical needs form and indicated the Appellant had no medical need for HHS services. (Exhibit 1, page 7).
7. On ██████████, the ASW contacted ██████████, Appellant's physician, and spoke with him personally. Appellant's physician told the ASW that although the Appellant had a deficit with his hand he did not see a need for assistance with personal care activities. (Exhibit 1, pages 4-5).
8. On ██████████, the Appellant's ASW sent an Adequate Action Notice notifying Appellant that his Home Help Services payments would not be authorized. The reason given was that the Appellant's physician said he could not certify a medical need for assistance with personal care activities. (Exhibit 1, pages 4-5).
9. On ██████████, 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.

██████████
Docket No. 2010-49927 HHS
Decision and Order

- 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.

* * * * *

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 physician indicated he could not certify a medical need for services for the Appellant. (Exhibit 1, pages 4, 5, 7). The ASW explained that after receiving the medical needs form he contacted the Appellant's physician and the physician said that although the Appellant had deficits in one hand he could not certify that the deficits resulted in a medical need for Home Help Services. Because the Appellant provided no medical certification for assistance the Department properly denied his application.

The Appellant testified that he had a previous carpal tunnel surgery and had arthritis in his left hand. The Appellant stated that his carpal tunnel surgeon's name was ██████████. The Appellant stated that two of his fingers on one hand lock up making it difficult to open jars or clean himself after bowel movement. The Appellant provided no DHS-54A medical needs form with medical professional certification for need of HHS-specific services.

The Appellant testified that he spoke with ██████████ a couple of weeks ago when he took his son to the doctor office. The Appellant testified that he asked ██████████ why he didn't certify a medical need for services and ██████████ denied talking to the ASW worker. Because this administrative law judge had contradictory statements from the ASW and the Appellant regarding speaking to the Appellant's physician there was a need to turn to document evidence to find support for one statement or the other. A review of the medical needs form is consistent with the ASW's testimony that ██████████ said he could not certify a medical need for Home Help Services for Appellant.

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 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 Home Help Services program in accordance with 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:



Date Mailed: 9/21/2010

***** 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.