

**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. 2010-51263 HHS
Case No. 88690730

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. ██████████, and ██████████, ██████████ also appeared on behalf of the Appellant.

██████████, represented the Department. ██████████; and ██████████ (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly not authorize Home Help Services (HHS) eligibility 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 ██████████ and Medicaid beneficiary. (Exhibit 1).
2. In or around ██████████ the Appellant was hospitalized for a perforated duodenal ulcer. (Exhibit 1).
3. Appellant was released from a hospital to his home in or around ██████████ (Exhibit 2).
4. At some time in ██████████ the Appellant applied for Home Help Services.

5. A medical professional's certification of medical need, indicated on a DHS 54-A form, is necessary to receive Home Help Services. (Exhibit 1).
6. On ██████████, the Appellant's ██████████ filled out a DHS 54-A medical needs form and indicated the Appellant was "cured" and had no medical need for services. (Exhibit 1, page 9).
7. The Appellant's ██████████ provided another medical needs form to the Appellant's ██████████. On ██████████, the Appellant's ██████████ filled out a medical needs form and indicated the Appellant was "cured" and had no medical need for services. (Exhibit 1, page 10).
8. On ██████████, the Department sent an Adequate Action Notice notifying Appellant that his Home Help Services request would be denied. The reason given was that the Appellant's ██████████ had not certified a medical need, and therefore did not meet eligibility criteria. (Exhibit 1, page 4).
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 the need for medical certification:

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.

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- 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.

* * * * *

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 she noted on ██████████, the Appellant's ██████████ indicated "cured" in Box E and "no" need for assistance in Box I of the DHS-54A medical needs form. (Exhibit 1, page 9) The ASW Worker testified that she provided another form to the Appellant's ██████████, and on ██████████, she received the second medical needs form from the Appellant's ██████████ in which he again indicated "cured" in Box E and "no" need for assistance in Box I of the DHS-54A medical needs form. Exhibit 1, page 10). Because the Appellant had no medical certification for assistance the Department was proper to not authorize his application.

The Appellant testified that he had a perforated duodenal ulcer for which he was hospitalized. The Appellant testified that he was discharged from hospital in ██████████ and needed 24-hour care. The Appellant explained that ██████████, took care of him when he was discharged from hospital. The Appellant testified that he applied for home help services around that time but never heard back from the DHS office until ██████████. The Appellant asserted that he believed ██████████ should be reimbursed for all the time he spent caring for him after he was discharged from hospital.

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

The Department's representative and ASW witness responded that no HHS case can be opened nor can payments can be made to a chore provider prior to the date the physician signs the medical needs form and certifies there is a medical need for assistance with personal care activities. The Appellant did not provide any written documentation that his physician had signed the medical needs form certifying the need for assistance with personal care activities before [REDACTED].

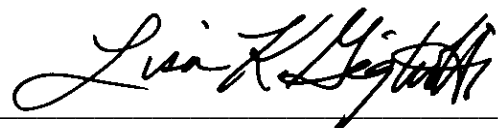
The Appellant bears the burden of proving by a preponderance of evidence that the Department's denial was not proper. The Appellant did not provide a preponderance of evidence that the Department's denial was not proper. The Department must implement the Home Help Services program in accordance to Department 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 was proper to not authorize his Home Help Services.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Lisa K. Gigliotti
Administrative Law Judge

cc:

[REDACTED]

Date Mailed: 11/8/2010

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***** 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.