

**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. 2010-7388 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 ██████████. ██████████ appeared on his own behalf. ██████████, chore provider, appeared as a witness for the Appellant. ██████████, Appeals and Review Officer, represented the Department. ██████████, Adult Services Worker, and ██████████ ILS Supervisor, were present as Department witnesses.

ISSUE

Did the Department properly determine the effective date of Home Help Services 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. In ██████████, the Department received a DHS 54-A Medical Needs form completed and signed by the Appellant's physician. (uncontested testimony)
2. On ██████████, the Appellant was referred to the Adult Services program for Home Help Services. (Exhibit 1, page 8)
3. On ██████████, a DHS 390 Adult Services Application was mailed to the Appellant. (Exhibit 1, page 7)
4. On ██████████, the Department received the Appellant's completed Adult Services Application with a signature date of ██████████. (Exhibit 1, pages 4-5)

5. On ██████████, the Department received an updated DHS 54-A Medical Needs form, signed by the Appellant's physician on ██████████ (Exhibits 1, page 6)
6. The Department approved Home Help Services payments for the Appellant effective ██████████. (Exhibit 1, page 10)
7. The Appellant and his provider made numerous verbal and written requests to the Department for retroactive Home Help Services payments, back to ██████████ ██████████, based upon the DHS 54-A medical needs form submitted that month. (Exhibit 1, pages 10-12)
8. The Department has explained to the Appellant that policy does not allow them to retroactively pay for Home Help Services prior to the signature date on the application and the doctor's signature date on the DHS 54- A certifying the need for services. (Exhibit 1, pages 10-12)
9. The Appellant requested a formal, administrative 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, page 1 of 5 addresses the Independent Living Services program requirements:

GENERAL 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.

Adult Services Manual (ASM 362) 12-1-2007

Adult Services Manual (ASM 363) 9-1-2008, page 1 of 24 repeats the requirement got the client to sign an Adult Services Application. This section of the Adult Services Manual, page 9 of 24, also address when Home Help Services can be authorized:

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. The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

If the medical needs form has not been returned, the adult services worker should follow-up with the client and/or medical professional. If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

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

Adult Services Manual (ASM 363) 9-1-2008

In the present case, the Appellant submitted the DHS 390 Adult Services Application on ██████████. (Exhibit 1, pages 4-5) The Appellant requested the Department utilize a DHS-54A Medical Needs form previously completed by his physician that was submitted to the Appellant's Medicaid worker in ██████████. When the Adult Services worker received the ██████████ DHS 54-A, she informed the Appellant that new medical would be required. (Exhibit 1, page 9) The Adult Services Supervisor testified that the request for a current DHS 54-A was in accordance with Department policy.

The Department received an updated DHS 54-A Medical Needs form signed by the Appellant's physician on ██████████. The Department approved HHS payments to the appellant with an effective date of ██████████. The Adult Services Supervisor testified that in accordance with Department policy, the HHS payments were approved effective the date the physician certified the Appellant's need for Home Help Services on the DHS 54-A that was current for the ██████████ HHS application.

The Appellant disagrees with the ██████████ effective date and argues that the DHS 54-A Medical Needs form submitted in ██████████, should be also considered his application for HHS. The Appellant explained that he first started working with the Department in ██████████ and believed he was applying for HHS in addition to the other benefit programs at that time. The Appellant stated he was not informed that a DHS 390 Adult Services Application was required for the HHS program until ██████████. The Appellant acknowledged that he is receiving Medicaid and has a Bridge Card from the Department.

It is uncontested that the Appellant submitted a DHS 54-A Medical Needs form in ██████████. However, the Appellant's filing of the DHS 54-A in ██████████ can not be considered an application for Home Help Services or any other independent living services program. Several Department programs utilize the DHS 54-A form to verify program eligibility. For example, the DHS 54-A may be utilized to verify the medical need for chronic or ongoing treatment, special transportation arrangements, or need for an attendant for medical transportation assistance (Bridges Administration Manual 825). The DHS 54-A is often utilized as supporting documentation of disability for Medicaid and State Disability Assistance eligibility (Bridges Eligibility Manual 260 and 261). The DHS 54-A is also used to verify an inability to participate in work related activities for the Food Assistance Program or Family Independence Program (Bridges Eligibility Manual 233A and 233B).

Department policy in this area is clear. A client must sign the DHS 390 Adult Services Application in order to receive home help services. The Department properly

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considered eligibility for Home Help Services starting from the Adult Services Application filed by the Appellant on [REDACTED].

Department policy further directs that Home Help Services payments can not be authorized prior to the date of the medical professionals signature on the DHS 54-A. *Adult Services Manual (ASM 363) 9-1-2008 page 9 of 24*. The Department supervisor explained that the [REDACTED], DHS 54-A was too old to verify the Appellant's medical need for services for the [REDACTED], application. Therefore, the Department requested a more current DHS 54-A from the Appellant's physician. The Department's policy states that a new DHS 54-A would not be required if a case was closed and re-opened within 90 days and there was no change in the clients condition. *Adult Services Manual (ASM 363) 9-1-2008 page 9 of 24*. The Department's determination that the [REDACTED], DHS 54-A form was too old is consistent with this policy because the form was signed by the physician more than 90 days prior to the Appellant's [REDACTED] application for Home Help Services. Accordingly, the Department properly approved the Appellant's Home Help Service application effective [REDACTED], the date his physician signed the updated DHS 54-A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined [REDACTED] as the effective date of Home Help Services payments for Appellant's [REDACTED] application.

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

cc:

[REDACTED]

Date Mailed: 2/2/2010

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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.