

**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. 2011-13654 HHS  
Case No. 2679147

**DECISION AND ORDER**

The 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 ██████████. ██████████ ██████████ for Appellant's chore provider agency, appeared on behalf of the Appellant. The Appellant was present and provided testimony.

██████████, represented the Department of Community Health (DCH or Department). ██████████, 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. The Appellant is ██████████ with a history of cerebral palsy. (Exhibit 1, page 10).
2. The Appellant is a Medicaid beneficiary who is enrolled in Department of Human Services (DHS) Home Help Services Program and in Community Mental Health services. (Exhibit 1, page 3).
3. In or before ██████████, the Appellant's case was transferred to a new DHS Adult Services Worker (ASW).

4. When reviewing the Appellant's file the ASW noted that there were no chore provider logs submitted since ██████████.
5. The ASW mailed the Appellant and the Appellant's chore provider HHS logs to complete and submit, but received no response from Appellant's chore provider agency. (Exhibit 1, page 8).
6. On ██████████, the Appellant's ASW again mailed to the Appellant provider logs to be completed by her provider and submitted to DHS. Several days later the Appellant's ASW arrived at the Appellant's home and observed the chore provider logs on the table. The Appellant's ASW again informed the chore provider that no logs had been submitted for ██████████ and that HHS payments would be terminated if the provider logs were not submitted. (Exhibit 1, page 9-11).
7. Between ██████████ the Appellant's ASW made at least five attempts to have the Appellant's chore provider logs returned to her. The attempts included speaking with ██████████ the Appellant's service provider agency ██████████ for the Appellant's service provider agency ██████████ mailing them to the Appellant's address, and having the forms present in the Appellant's home at the ██████████ home visit. (Exhibit 1, pages 9 through 11).
8. On ██████████, the Appellant's ASW sent an Adequate Action Notice notifying the Appellant that her Home Help Services payments would be terminated. The reason given was that the Appellant had not provided chore provider logs from ██████████. (Exhibit 1, pages 4-6).
9. On ██████████, the Department received the Appellant's Request for Hearing filed with assistance by the Appellant's chore provider agency. (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), pages 15-18 of 24 states that a chore provider must keep a log of the services provided and must submit the logs on a quarterly basis. The

Adult Services Manual also states that HHS payment may be terminated if the provider fails to keep a log and submit the log on a quarterly basis:

### **HOME HELP SERVICE PROVIDERS**

**Provider Selection** The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. The client may receive DHS payment for home help services from **qualified** providers only. The determination of provider qualification is the responsibility of the adult services worker.

**Do not authorize HHS payments to a responsible relative or legal dependent of the client.**

**Provider Criteria** Determine the provider's ability to meet the following minimum criteria in a face-to-face interview with the client **and** the provider:

#### Age

- Appropriate to complete the needed service.

#### Ability

- To follow instructions and HHS program procedures.
- To perform the services required.
- To handle emergencies.

#### Physical Health

- Adequate to perform the needed services.

#### Knowledge

- How and when to seek assistance from appropriate others in the event of an emergency.

#### Personal Qualities

- Dependable.
- Can meet job demands including overtime, if necessary.

#### Training

- Willing to participate in available training programs if necessary.

HHS payment may be terminated if the provider fails to meet any of the provider criteria.

**Provider Interview** Explain the following points to the client and the provider during the initial interview:

- The provider is employed by the client **not** the State of Michigan.
- A provider who receives public assistance **must** report all income received as a home help provider to the FIS/ES.
- The client is the employer and has the right to hire and fire the provider.
- The client is responsible for notifying the worker of any change in providers or hours of care.
- The services the provider is responsible for and has agreed to deliver including the frequency, amount and type of service.
- The provider **must** keep a log of the services provided Personal Care Services Provider Log (DHS-721) and submit it on a quarterly basis. The client **must** sign the Authorization for Withholding of FICA Tax in Home Help Payments (DHS-4771).

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## **PAYMENT AUTHORIZATION**

### **Payment Authorization System**

Enter home help provider enrollments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS provider database. See the ASCAP user guide on the [adult services home page](#).

HHS payments to providers must be:

- Authorized for a specific type of service, period of time and payment amount.
- Authorized to the person actually providing the service.

**Docket No. 2011-13654 HHS**  
**Decision and Order**

- Made payable jointly to the client and the provider.

Any payment authorization that does **not** meet the above criteria must have the reason fully documented in the **Payments** module, exception rationale box, in **ASCAP**. The supervisor will document through the electronic approval process.

(Underline added by ALJ).

According to Department policy, the DHS may terminate HHS payments if the provider fails to keep a log of HHS services provided to the Appellant and to submit those logs on a quarterly basis. The ASW testified that she made at least five attempts to collect chore provider logs from the Appellant's chore provider agency. The attempts included speaking with [REDACTED] for the Appellant's service provider agency [REDACTED] [REDACTED] for the Appellant's service provider agency [REDACTED] mailing them to Appellant's address, and having the forms present in Appellant's home at the [REDACTED] home visit. (Exhibit 1, pages 9 through 11). The ASW testified that despite her attempts the chore provider agency did not submit chore provider logs to DHS from [REDACTED].

The Appellant's representative/chore provider agency testified that the Appellant's previous ASW stopped providing chore provider logs to the chore provider agency. The ASW did not dispute there may have been a lapse in chore provider logs in [REDACTED], but she provided credible testimony and document evidence that she had the case transferred to her in [REDACTED] and for almost one year had provided chore provider logs and made at least five attempts to collect those chore provider logs from the chore provider agency with no success.

The Appellant's representative/chore provider agency was provided an opportunity to present the missing chore provider logs at hearing but was unable to provide any chore provider logs for any date after [REDACTED].

The Department's HHS policy is clear. The Department may terminate HHS payment if the provider fails to keep a log of the services provided and fails to submit the logs to DHS on a quarterly basis.

The Appellant bears the burden of proving by a preponderance of evidence that the Department's termination of HHS payment 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 preponderance of the evidence in this case established that the Department properly denied the Appellant's HHS payment in accordance with Department policy.

The Appellant's representative/chore provider also discussed the issue of not being aware that she had to report the Appellant's overnight stays with no chore provider assistance. The proper procedure was discussed by all parties. The Appellant's representative/chore provider sought clarification on why the tasks on the chore provider logs had changed and the

**Docket No. 2011-13654 HHS  
Decision and Order**

Department explained the tasks were based on the most recent in-person assessment. These two issues, and the issue of whether chore provider logs were distributed from the former ASW in [REDACTED], do not overshadow the fact that the Appellant's chore provider agency did not submit to DHS chore provider logs for all the months of [REDACTED], and that the Department may terminate HHS payment without receipt of chore provider logs.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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Lisa K. Gigliotti  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 4/7/2011

**\*\*\* 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 the 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.