

**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. 2011-14857 HHS
Case No. 74132907

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 her own behalf. ██████████, the Appellant's ██████████, appeared as a witness for the Appellant.

██████████, represented the Department of Community Health (DCH or Department). ██████████, 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. The Appellant is ██████████. (Exhibit 2)
2. The Appellant is a Medicaid beneficiary.
3. On ██████████, the Appellant's doctor filled out a medical needs form and indicated the Appellant had diagnoses of diabetes, osteoarthritis, high blood pressure, peripheral neuropathy and bipolar disorder. (Exhibit 2)
4. On ██████████, the Appellant's Adult Services Worker (ASW) performed an in-home comprehensive assessment. Based on the ASW's observations

and the answers she received from questioning the Appellant, the ASW approved the Appellant for the services of housework and laundry. (Exhibit 1, page 7)

5. On [REDACTED], the Appellant's ASW sent the Appellant a Services Approval Notice, notifying her of the HHS authorization for housework and laundry in the amount of \$ [REDACTED] per month. (Exhibit 1, pages 4, 5, 6)
6. On [REDACTED], the ASW notified the Appellant that her Home Help Services chore provider had to come in person to the Department of Human Services (DHS) office to be enrolled before payments would begin. (Exhibit 1, pages 4, 5, 6)
7. On [REDACTED], 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.
- 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. (Exhibit 1, page 13, underline added).

According to Department policy, it is the DHS ASW's responsibility to determine what services are medically necessary and therefore can be authorized for payment to the Home Help Services program. While the Appellant's physician is required to certify she has a medical condition, it is the Appellant's ASW that determines what Home Help Services are needed, not the Appellant's physician.

The Appellant testified that her health condition has worsened since her [REDACTED], home assessment. The Appellant said that she believed the worker should have followed what she told the worker about her medical condition, and what the doctor marked off on the medical needs form.

The Department's witness clarified that it is the Adult Services Worker who makes determinations about medical necessity for a HHS task, and not the doctor.

The Appellant explained that she now has blackouts, she needs help transferring, she has been double-taking her medications, she almost set her house on fire while preparing meals, and does not believe that the ASW assessed her properly. The Appellant admitted that the worsening of her condition occurred after [REDACTED].

This Administrative Law Judge is limited to the evidence the Department had at the time it made its decision in [REDACTED]. By the Appellant's testimony, her worsening condition occurred after [REDACTED]. There was discussion during the hearing at which the Appellant was informed that if her condition worsened since [REDACTED], she may contact her ASW and request a new comprehensive assessment. At this time however, the Administrative Law Judge cannot assign controlling weight to the Appellant's testimony about her health condition since [REDACTED].

The Appellant also stated that although she sent in a request for Home Help Services in [REDACTED] [REDACTED] her chore provider did not receive checks until months later. The Home Help program cannot issue payments until the chore provider goes to the DHS office and enrolls in the Home Help program, and the medical needs form is signed. An increase in authorization cannot take place until a new comprehensive assessment is performed.

[REDACTED]
Docket No. 2011-14857 HHS
Decision and Order

The Appellant bears the burden of proving by a preponderance of evidence that the Department's authorization was proper. The Appellant did not provide a preponderance of evidence that the Department's authorization was not proper. The Department must implement the Home Help Services program in accordance to Department policy. The Department provided sufficient evidence that in [REDACTED] it properly authorized the Appellant's 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 authorized her Home Help Services.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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 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.