

**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. 2011-14872 HHS
Case No. 9678965

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 ██████████. The Appellant appeared without representation. Her witness was ██████████. ██████████, represented the Department. Her witnesses were ██████████ (ASW), and ██████████.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services (HHS)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. At the time of hearing the Appellant is ██████████.
2. Her Medicaid benefits were terminated on ██████████.
3. The Appellant's HHS benefit was terminated on ██████████. (Department's Exhibit A, p. 4)
4. The Appellant was advised of the termination by the Department of Human Services (DHS) 1212 Advance Negative Action Notice on ██████████ – to be effective ██████████. (Department's Exhibit A, p. 4)
5. The instant appeal was received by the State Office of Administrative Hearings and Rules (SOAHR) on ██████████.

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.

Home Help Services (HHS)

Payment related independent living services are available if the client meets HHS eligibility requirements. Clients who may have a need for HHS should be assisted in applying for Medicaid (MA). Refer the client to an eligibility specialist. Cases pending MA determination may be opened to program 9 (ILS). HHS eligibility requirements include all of the following:

- The client must be eligible for Medicaid.
- Have a scope of coverage of:
 - 1F or 2F,
 - 1D or 1K, (Freedom to Work), **or**
 - 1T (Healthy Kids Expansion).
- The client must have a need for service, based on
- Client choice, **and**
- Comprehensive Assessment (DHS-324) indicating a functional limitation of level 3 or greater in an ADL or IADL.
- Medical Needs (DHS-54A) form signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:
 - Physician.
 - Nurse practitioner.
 - Occupational therapist.
 - Physical therapist.

Payment related independent living services (HHS) are available if the customer meets the HHS eligibility requirements. Customers who may have a need for HHS should be assisted in applying for Medicaid. Refer the customer to an Eligibility Specialist. Cases pending MA

determination may be opened to program 9 (ILS).
(Emphasis supplied)

Adult Services Manual (ASM) §362, pp. 1, 2 of 5, 12-1-2007

ELIGIBILITY FOR HOME HELP SERVICES

Home help services (HHS) are defined as those which the Department is paying for through Title XIX (Medicaid) funds. The client must be eligible for Medicaid in order to receive these services.

Medicaid/Medical Aid(MA)

Verify the client's Medicaid/Medical aid status.

The client may be eligible for MA under one of the following:

- All requirements for MA have been met, **or**
- MA deductible obligation has been met.

The client must have a scope of coverage of:

- 1F or 2F, **or**
- 1D or 1K (Freedom to Work), **or**
- 1T (Healthy Kids Expansion).

(Emphasis supplied) ASM §363, p. 7 of 24, 9-1-08

The Department witness testified that the Appellant's Medicaid status was discovered when she called to inquire about a check for her provider. ██████████ (ASW) stated that they checked and discovered that the Appellant had lost her Medicaid status effective last year.

The Appellant and her witness explained that she needs help and has received help for 20 years. She testified about a ██████████ decision which affected her SSI status. Her choreprovider testified that she has not received a check since ██████████.

On review, it was clearly established that the Appellant did not have Medicaid. Absent such status or eligibility the HHS program can not be provided to the Appellant.

The Appellant failed to preponderate her burden of proof that the Department improperly terminated her HHS. The Department's decision was correct when made.

DECISION AND ORDER

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

[REDACTED]
Docket No. 2011-14872 HHS
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IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 4/13/2011

***** 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.