STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

Docket No. 2011-34332 HHS
Case No.

,

Appellant.
___________________________/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 , Appellant's legal guardian and sister, appeared on his behalf. also testified on Appellant's behalf. , Appeals Review Officer, represented the Department of Community Health. , Adult Services Specialist, from the DHS-HHS Office appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's application for 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. Appellant is a year-old Medicaid beneficiary.

2. , Appellant's sister, is also his full legal guardian. (Exhibit 1, page 1; Testimony of).

3. In , Appellant's guardian applied for HHS on his behalf. (Exhibit 2, page 9).

4. As part of the initial application and assessment, Adult Services Specialist sent Appellant an introduction letter and a DHS 54-A Medical

Needs Form to be completed by Appellant's physician. (Exhibit 2, pages 5-9; Testimony of).

5. The introduction letter also stated that, if a completed medical needs form was not received by , the Department would assume that Appellant was no longer interested in HHS and would close the case. (Exhibit 2, pages 5-9; Testimony of).

6. On , the Department issued an Adequate Negative Action Notice denying HHS on the basis that no completed medical needs form was ever returned. (Exhibit 2, pages 5-9; Testimony of).

7. On , the Department received Appellant's Request for Hearing. Both Appellant and Appellant's guardian's signatures on that request are dated and Appellant's guardian testified that she filed the Request for Hearing the day after she received notice of the denial. (Exhibit 2, page 4; Testimony of).

8. In the Request for Hearing, Appellant's guardian asserts that all of the necessary paperwork was turned in by . (Exhibit 2, page 4; Testimony of).

9. At some point, the Department did receive the completed medical needs form relied upon by Appellant's guardian. That form was signed by Appellant's physician on and states that Appellant was last seen by the physician on (Exhibit 3, page 1; Testimony of ; Testimony of).

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 physician and may be provided by individuals or by private or public agencies.

Both Adult Services Manual 362 (12-1-07) (hereinafter "ASM 362") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the need for a Medical Needs Form certifying a medical need for the specified personal services prior to authorizing HHS:

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:

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- Medical Needs (DHS-54-A) 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.

(ASM 362, page 2 of 5)

Necessity For Service

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

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- 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.

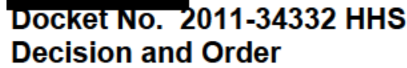
Do **not** authorize HHS prior to the date of the medical professional signature on the DHS-54A.

(ASM 363, page 9 of 24)

As described above, ASM 362 and ASM 363 expressly provide that the Department must have verification of medical need from a Medicaid enrolled provider in order to authorize HHS. In this case, it is clear that no completed DHS 54-A Medical Needs form was returned to the Department prior to the denial. In the introduction letter sent out on , the Department stated that Appellant's application would be denied unless a completed medical needs form was returned by . No such form was returned by and the Department subsequently denied Appellant's application on

Appellant's guardian testified that a completed medical needs form was returned prior to the due date, but the form she relies on was signed by Appellant's physician on and states that Appellant was last seen by the physician on . (Exhibit 3, page 1; Testimony of). Given the dates on that form, it is clear that it was not provided to the Department prior to the denial.

The policies are clear in this case and the medical needs form is unambiguous. The Department properly denied the HHS application based on the information available at that time of the decision as no doctor had certified that Appellant had a medical need for personal assistance services.



Appellant has now provided a completed medical needs form and has another application for HHS pending. Nevertheless, his earlier application was properly denied for the reasons stated above.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department properly denied Appellant's application for HHS based on the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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Steven Kibit
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

Date Mailed: 8/16/2011

*** NOTICE ***

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.