

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. 2011-52736 HHS
Case No. [REDACTED]

[REDACTED]
Appellant
_____ /

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 [REDACTED]. The Appellant appeared without representation. She was accompanied to the hearing site by [REDACTED]. [REDACTED] Appeals Review Officer, represented the Department. Her witness was [REDACTED], ASW.

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) The Appellant is a [REDACTED]-year-old, disabled SSI recipient. (Appellant's Exhibit #1 and Department's Exhibit B)
- 2) The Appellant is afflicted with left tibia fracture, left lumbar radiculopathy, paracentral disc protrusion at L5-S1, and right shoulder impingement. (Department's Exhibit B)
- 3) The Appellant testified that she was terminated from the HHS program because her Medicaid insurance would open and close – until she went to hearing and prevailed before Administrative Law Judge [REDACTED] in his decision dated [REDACTED]. (See Testimony of Appellant and Department's Exhibit B)
- 4) The ASW conducted an in-home assessment/annual review of the Appellant on [REDACTED]. (Department's Exhibit A, p. 5)
- 5) The ASW noticed the Appellant on DHS 1212A that her benefits would be terminated effective date [REDACTED], because her Medicaid had lapsed.

(Department's Exhibit A, pp. 8, 9, 11, 12)

- 6) The ASW then sent another termination notice on ██████████ advising the Appellant that her benefits would be terminated with an effective date of ██████████. (Department's Exhibit A, pp. 2, 5)
- 7) The request for hearing on the instant appeal was received by the Michigan Administrative Hearing System 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 medical professional.

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive Assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will be entered on the computer program.

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the customer in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer's social security card.
- Observe a picture I.D. of the caregiver, if applicable.

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- The assessment must be updated as often as necessary, but minimally at the six month review and annual re-determination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the agency record.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

Note: HHS payments may only be authorized for needs assessed at the 3 level or greater.

Time and Task The worker will allocate time for each task assessed a rank of 3 or higher, based on interviews with the client and provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a guide. The RTS can be found in ASCAP under the Payment module, Time and Task screen. When hours exceed the RTS rationale must be provided.

Requirements:

- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- A new medical needs (DHS-54A) certification, if home help services are being paid.

Note: The medical needs form for SSI recipients will **only** be required at the initial opening and is no longer required in the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and then annually thereafter.

- A face-to-face meeting with the care provider, if applicable. This meeting may take place in the office, if appropriate.

Adult Service Manual (ASM), §363, pp. 2, 3 of 23, 9-1-2008.

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The Department witness testified that HHS was terminated for lack of Medicaid eligibility.

The Appellant testified that her, “Medicaid insurance was interrupted month after month.” She said “...I thought there was a vendetta against me.” She said that during the early part of ██████████ she hired ██████████ to provide services during her periods of ineligibility. Her disability was affirmed by Administrative Law Judge ██████████ in an excellent and detailed opinion¹ setting forth both the quality of her disability and the finding of fact that the Appellant had applied for Medicaid on ██████████.

On review today, the Department’s evidence and the Appellant’s testimony supports the conclusion that the decisions to terminate the Appellant’s HHS for lack of Medicaid eligibility were correct.

Judge ██████████ reversed the Department’s decision to deny the claimant’s application for Medicaid. He ordered the Department to process her application and award benefits – provided she met all non-medical standards.² He ordered a further review of her disability in ██████████.

It is the province of the ASW to determine eligibility for HHS services; the ASM requires an in-home assessment of the prospective and existing HHS recipients – in addition to the review for Medicaid status. The Appellant said her Medicaid was “off and on between the months of ██████████ and ██████████” through no fault of hers as she was otherwise eligible and disabled. Unfortunately, there was no proof in the record to support that assertion for the ALJ at hearing today or before the ASW on review of the Appellant’s HHS case during ██████████.

In order to receive any retroactive HHS payment the Appellant would need to establish an earlier period of alleged Medicaid eligibility before the DHS. This ALJ has no jurisdiction to resolve eligibility disputes.

The Appellant preponderated her burden of proof before Judge ██████████ as to disability, however there was no proof in this record that the Appellant was Medicaid eligible prior to August – so her termination from the HHS program was proper based on her lack of Medicaid status.

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 HHS.

¹ For instance at step two where the Department may screen for baseless claims he wrote: “In the current case, claimant has presented *more than sufficient* evidence of left tibia fracture, left lumbar radiculopathy, paracentral disc protrusion at L5-S1, and right shoulder impingement that has more than a minimal effect of the claimant’s ability to do basic work activities.” (Emphasis supplied)

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This would entail marshalling her assets and a thorough review of her finances.


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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:



Date Mailed: 12/15/2011

***** 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.