

**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. 2011-7566 HHS
Case No. 73987092

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant's ██████████, represented the Appellant. ██████████, represented the Department. ██████████ (worker), testified on behalf of the Department. ██████████, was also present.

ISSUE

Was the Department's failure to authorize Home Help Services (HHS) for the Appellant proper?

FINDINGS OF FACT

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

1. The Appellant is ██████████ Medicaid beneficiary, who suffers from several medical conditions, including neurofibromatosis, scoliosis, and congenital heart disease. (Exhibit 2, page 3)
2. The Appellant requested HHS in ██████████, and the worker sent the Appellant an application and medical needs form. (Exhibit 1, page 7; Testimony of ██████████)
3. The worker attempted to call the Appellant to schedule a home visit. However, he did not have the correct phone number. (Testimony of ██████████)
4. On ██████████, the worker issued an Adequate Negative Action Notice, advising the Appellant that her HHS case was being terminated, effective that date, because he was unable to reach her to schedule a

home visit. (Exhibit 1, pages 7-9)

5. On ██████████, the Department received the Appellant's unsigned Request for Hearing. (Exhibit 1, page 3)
6. A hearing was scheduled in the matter on ██████████. On that day, the worker went to the Appellant's home to conduct an assessment. However, the Appellant was in the hospital. The worker advised the family to contact him when the Appellant came home from the hospital, but he did not receive a call. (Testimony of ██████████; Testimony of ██████████)
7. In ██████████, the State Office of Administrative Hearings and Rules received the Appellant's signed Request for Hearing.
8. To date, the Appellant's HHS case remains open. However, no assessment has been conducted. (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.

The purpose of HHS is 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.

Policy requires that the following criteria to be met in order to be eligible for 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:

- 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.

Adult Services Manual (ASM) 362, pages 1-2, 12-1-2007

There is no dispute that the required in-home assessment to determine the Appellant's need for HHS was not conducted in this case. The worker was initially unable to contact the Appellant to schedule an assessment due to an incorrect phone number, and when he went to the home to conduct the assessment, she was in the hospital. Therefore, the Department could not authorize HHS, and its failure to do so was proper.

However, the Department's notice of its action was improper. While it does not affect the outcome of the case, because the worker testified that this case has not been closed, an Adequate Action Notice, informing the Appellant that her HHS application had been denied would have been the appropriate notice in this case. The Appellant's request for HHS was never authorized here, so HHS could not be terminated.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department's failure to authorize HHS for the Appellant was proper.

IT IS THEREFORE ORDERED that:

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

Kristin M. Heyse
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

**Docket No. 2011-7566 HHS
Decision and Order**

cc:



Date Mailed: 4/11/2011

***** 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.