

**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. 2011-12274 HHS
Case No. 25462918

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, ██████████, was present. He was represented by ██████████. ██████████, represented the Department. ██████████ (worker), and ██████████, were present as Department witnesses.

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. (Exhibit 1, page 3)
2. The Appellant asserts that he applied for HHS in ██████████. He states that he placed an application (DHS-390) and a medical needs form (DHS-54A) in the Department of Human Services (DHS) drop box. (Testimony of Johnson)
3. On ██████████, the Appellant's physician completed a medical needs form, certifying the Appellant's need for HHS. (Exhibit 2)

4. The Department does not have an application on file for the Appellant. (Testimony of ██████████)
5. On ██████████, the Department received the Appellant's Request for Hearing, asserting that he had requested and been denied HHS twice. (Exhibit 1, pages 2-3)
6. The only information the Department has in its database for the Appellant is the information it obtained when he was designated as a chore provider for another beneficiary from ██████████ to ██████████. (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.

The Adult Services Manual (ASM 362), 12-1-2007, page 1 of 5, addresses when Home Help Services can be authorized:

GENERAL SERVICES REQUIREMENTS

The client must sign an Adult Services Application (DHS-390) to receive ILS. An authorized representative or other person acting for the client may sign the DHS-390 if the client:

- Is incapacitated, **or**
- Has been determined incompetent, **or**
- Has an emergency.

A client unable to write may sign with an "X", witnessed by one other person (e.g., relative or department staff). Adult services workers must not sign the services application (DHS-390) for the client.

The Adult Services Manual (ASM 363) 9-1-2008, pages 1 of 24, also addresses the need for a signed application before HHS can be authorized:

APPLICATION FOR SERVICES

The client must sign the DHS-390, Adult Services Application (RFF 390) to receive independent living services. An authorized representative or other person acting for the client may sign the DHS-390, **if** the client:

- Is incapacitated.
- Has been determined incompetent.
- Has an emergency.

A client unable to write may sign with an "X" witnessed by one other person (e.g. relative or department staff). Adult services workers must not sign the DHS-390 on behalf of the client.

In the present case, the Department asserts that it never received a request or application for HHS from the Appellant. The Appellant, on the other hand, testified that he submitted an application and medical needs form to the Department in ██████████. He stated that he left the materials in the DHS drop box.

The Appellant bears the burden of proving by a preponderance of evidence that the Department's action was not proper. The Appellant failed to meet his burden here. The Appellant referred this Administrative Law Judge to a medical needs form that was completed by his physician in ██████████ as evidence of his filing an application. However, he presented no evidence to support that he provided a signed application to the Department. The application and the medical needs form are two different documents. And the medical needs form is used for other Department programs. Therefore, the Appellant's completed medical needs forms does not automatically support that an HHS application was also completed and received by the Department.

The above-cited Department policy requires a signed Adult Services Application (DHS 390) before a HHS payment can be authorized. Here, the evidence supports that the Department did not receive an HHS application from the Appellant. Therefore, the Department's failure to authorize HHS to the Appellant was proper.

DECISION AND ORDER

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


Docket No. 2011-12274 HHS
Decision and Order

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

cc:



Date Mailed: 4/12/2011

***** 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.