

**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:

██████████  
Appellant  
\_\_\_\_\_ /

Docket No. 2011-13570 HHS  
Case No. 9412102

**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. She had no witnesses. ██████████, represented the Department. Her witnesses were ██████████ and ██████████ (ASW).

**ISSUE**

Did the Department properly suspend 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 the hearing the Appellant is ██████████ Medicaid and SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant, according to her petition, "has medical problems, needs 24-hour care and is frequently hospitalized." (Appellant's Exhibit #1)
3. There was no dispute that the Appellant is eligible for HHS for the ADLs of bathing, grooming, medication, dressing and meal preparation, 7-days a week. IADLs of housework, laundry and shopping are authorized for 4-days a week. (Department's Exhibit A, p. 2)
4. On ██████████, the ASW sent the Appellant a DHS-1212 Advance Negative Action Notice informing her that the ASW was returning her log sheets because they were not being filled out correctly. She was further advised that her benefits were suspended and to call the ASW. (Department's Exhibit A, p. 2)

5. The home care provider logs in evidence, although executed by the Appellant and her provider, have numerous errors and omissions. (Department's Exhibit A, p. 18)
6. The ASW said that she had spoken with the Appellant on the telephone about the deficient logs and that the Appellant had also indicated to her that she sought 24-hour care and a pay raise for her chore provider. The limits of the HHS program were explained to the Appellant. (See Testimony)
7. On [REDACTED] the Appellant's provider brought the instant appeal—countersigned by the Appellant advising of “worsened” medical issues and requesting a “raise in my check.” (Appellant's Exhibit #1)
8. At the hearing the Appellant said she had “epilepsy [and]...new papers from her doctor regarding her changed condition.” (See Testimony)
9. The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on [REDACTED]. (Appellant's Exhibit #1)

### **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.

Furthermore, the Adult Services Manual (ASM) lists the eligibility criteria for HHS:

#### **Home Help Services (HHS)**

Payment related independent living services (HHS) 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, **and**
- Have a scope of coverage of:
  - 1F or 2F,
  - 1D or 1K, (Freedom to Work), **or**
  - 1T (Healthy Kids Expansion), **and**

. . . . ASM, §362, 12-1-2007, page 2 of 5.

## CONTACTS

The worker must, at a minimum, have a face to face interview with the client and care provider, prior to case opening, then every six months, in the client's home, at review and redetermination.

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## Advance Negative Action Notice (DHS-1212)

If independent living services are denied or withdrawn, or if payment is suspended or reduced, the adult services worker must notify the client of the negative action.

The Advance Negative Action Notice (DHS-1212) is used and automatically generated on ASCAP when the following reasons are selected:

- Reduced - decrease in payment.
- Suspended - payments stopped but case remains open.
- Terminated - case closure.

## TERMINATION OF HHS PAYMENTS

Suspend and/or terminate payments for HHS in **any** of the following circumstances:

- The client fails to meet any of the eligibility requirements.
- The client no longer wishes to receive HHS.
- The client's provider fails to meet qualification criteria.  
. . . (Emphasis supplied) *Supra*, pages 3, 4, 5.

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The Department witness testified that the Appellant was eligible for HHS as presently configured. She explained that the Appellant and her chore provider had been filling out the provider logs incorrectly "for a long time." She added that in her telephone discussions with the Appellant on how to correct the logs and reinstate payment that the HHS program is not a 24-hour service and that there was no evidence of a change in medical condition to merit increasing her provider's hours or wage.

At hearing the Appellant said she had "new papers" from her doctor regarding her change in condition from [REDACTED]. The limit of the ALJ's jurisdiction was explained to the Appellant regarding the instant appeal. She is advised of her right to seek reassessment

from the Department owing to a change of medical condition without waiting until her next review.

The Appellant did not withdraw her appeal as received by this tribunal on [REDACTED].

The Appellant failed to preponderate her burden of proof that the Department improperly suspended her HHS owing to incorrectly completed provider logs. Her remedy is to provide the Department with correctly completed logs signed by both the provider and the client.<sup>1</sup> The Department properly suspended the Appellant's HHS benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly suspended the Appellant's HHS.

**IT IS THEREFORE ORDERED** that:

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

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

CC:

[REDACTED]

Date Mailed: 4/27/2011

**\*\*\* 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.

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<sup>1</sup> See ASM 363 page 18 of 24 *Personal Care Services Provider Log (DHS 721)*