

**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. 2011-14869 HHS
Case No. 38573605

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. He had no witnesses. ██████████ represented the Department. Her witness was ██████████ (ASW).

ISSUE

Did the Department properly deny the Appellant's request for Home Help Services (HHS)?

FINDINGS OF FACT

The Administrative Law Judge (ALJ), 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 ██████████ disabled, SSI beneficiary. (Appellant's Exhibit #1)
2. Medicaid was terminated on ██████████. (Appellant's Exhibit #1)
3. According to the Appellant he needs help with household chores because he is a diabetic and suffers from the sequela of a stroke. (Appellant's Exhibit #1)
4. The Appellant lives with his ██████████ – they had been separated prior to his stroke. (See Testimony)
5. On an in-home assessment, the Appellant's living arrangement was discovered by the ASW. (See Testimony of ██████████)
6. On ██████████, the Appellant was sent a Department of Human Services (DHS) 1212A Adequate Action Notice denying HHS for lack of returning his signed Services Application. (Department's Exhibit A, p. 6)

7. On [REDACTED], the Appellant brought the instant appeal, received by the State Office of Administrative Hearings and Rules on [REDACTED]. (Appellant's Exhibit #1)
8. The amended Services Application was received post DHS 1212A [REDACTED] [REDACTED] and appeal thus triggering the [REDACTED] home call and unrelated DHS 1212A. (Department's Exhibit A, pp. 5, 6)

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 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.

GENERAL SERVICES REQUIREMENTS

The client must sign an Adult Services Application 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. Eligibility must be determined within 45 days of the signature date on the DHS-390.

Adult Services Manual (ASM) §362, page 1 of 5, 12-1-2007

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.
- 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.

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS payment.

Conduct a functional assessment to determine the customer's ability to perform the following activities:

Activities of Daily Living (ADL)

- Eating
- Toileting
- Bathing
- Grooming
- Dressing
- Transferring

- Mobility

Instrumental Activities of Daily Living (IADL)

- Taking Medication
- Meal Preparation and Cleanup
- Shopping
- Laundry
- Light Housework

Functional Scale ADL's and IADL's are assessed according to the following five-point scale:

1. Independent

Performs the activity safely with no human assistance.

2. Verbal Assistance

Performs the activity with verbal assistance such as reminding, guiding or encouraging.

3. Some Human Assistance

Performs the activity with some direct physical assistance and/or assistive technology.

4. Much Human Assistance

Performs the activity with a great deal of human assistance and/or assistive technology.

5. Dependent

Does not perform the activity even with human assistance and/or assistive technology.

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.

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

The Department witness testified that the Appellant's application for HHS was denied because he failed to submit an executed Services Application. Although the Appellant filed his appeal on [REDACTED] he testified today that he had to move in with his estranged spouse owing to his medical condition – and he was unaware that this would disqualify him for HHS.

The Appellant never addressed the execution of the Services Agreement.

On review of the evidence presented today the ALJ finds that the denial for lack of a properly executed Services Agreement was appropriate when made.

The Appellant did not preponderate that the Department erred in denying his application for Home Help Services as of [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for Home Help Services.

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:

[REDACTED]

Date Mailed: 4/8/2011

***** 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.