

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
BENEFIT SERVICES DIVISION
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2011-25232 HHS
Case No. 72414100

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to M.C.L. § 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant's sister, appeared and testified on Appellant's behalf. Appellant was also present during the hearing, but did not participate. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Supervisor, and ██████████, Adult Services Worker (ASW), from the ██████████ DHS-District ██████████ Office appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate 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. Appellant is a ██████ year-old Medicaid beneficiary who suffers from a mental impairment and has been receiving HHS since ██████████. (Exhibit 1, page 10).
2. Appellant was last assessed face-to-face by the Department's staff on ██████████. (Exhibit 1, page 10).
3. On ██████████, ASW ██████████ attempted to conduct a home visit and reassessment at the address listed for Appellant. No one was home. (Exhibit 1, page 10; Testimony of ██████████).
4. On ██████████, ASW ██████████ again attempted to conduct a home visit and reassessment at the address listed for Appellant. No one was home, but ASW ██████████ did speak with Appellant's representative as he was leaving and she informed him that Appellant was visiting with relatives

- in ██████████, over the holidays. (Exhibit 1, page 10; Testimony of Sulton; Testimony of ██████████).
5. ASW ██████████ also attempted to schedule a home visit through multiple phone calls and letters. (Testimony of ██████████).
 6. On ██████████, the Department issued an Advance Negative Action Notice to Appellant indicating that his HHS payments would be terminated because the Department was unable to locate Appellant and conduct the reassessment required by policy. The effective date of the termination was identified as ██████████. Appellant was advised to contact the Department prior to that termination date. (Exhibit 1, pages 5-7).
 7. Appellant's representative and ASW ██████████ spoke on the telephone on approximately ██████████, but no home visit was scheduled. (Exhibit 1, page 9; Testimony of Sulton; Testimony of ██████████).
 8. According to Appellant's representative, she advised ASW ██████████ that they were living in a hotel in ██████████, but she did not provide him with a specific address because ASW ██████████ told her that he would not conduct a home visit outside of ██████████ (Testimony of ██████████).
 9. According to ASW ██████████, Appellant's representative told him that she and Appellant were living in a hotel in ██████████, but Appellant's representative would not provide a specific address. ASW denies stating that he would not go outside of ██████████ to conduct the visit. (Testimony of ASW ██████████).
 10. On ██████████, the Department received Appellant's Request for Hearing. In that request, Appellant's representative asserts that, while she and Appellant have not had permanent housing since their house burned down, Appellant was available for a home visit. Appellant's representative also stated in the request that ASW ██████████ refused to do a visit because Appellant was living outside of ██████████. (Exhibit 1, page 4).

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 Social Welfare Act, 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 physician and may be provided by individuals or by private or public agencies.

Here, as described above, the Department terminated Appellant's HHS because it was

unable to locate Appellant and conduct the reassessment required by policy. Both Adult Services Manuals 362 (12-1-07) (hereinafter "ASM 361") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the issues of reviewing and reassessing an authorization of HHS. For example, ASM 362 provides that a "worker must, at a minimum, have a face to fact interview with the client **and** care provider, prior to case opening, then every six months, in the client's home, at review and redetermination." (ASM 362, page 3 of 5 (emphasis in original); Exhibit 1, page 12). ASM 362 also provides:

REVIEW

Update the comprehensive assessment and the service plan every six months. Review the adequacy of the service plan to assure it meets the client's current needs.

Review eligibility for independent living services every 12 months, or sooner if the client's condition or circumstances warrant.

The annual review requires:

- MA eligibility verification, if relevant.
- Comprehensive assessment.
- Service plan.
- Renewal of the medical needs (DHS-54A).

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 must have a DHS-54A completed at the initial opening and then annually thereafter.

(ASM 362, page 4 of 5 (emphasis in original); Exhibit 1, page 13)

Similarly, ASM 363 provides:

REVIEWS

ILS cases must be reviewed every six months. A face-to-face contact is required with the client, in the home. If applicable, the interview must also include the caregiver.

Six Month Review

Requirements

Requirements for the review contact must include:

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- A review of the current comprehensive assessment and service plan.
- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan.
- Review of client satisfaction with the delivery of planned services.

Documentation

Case documentation for all reviews should include:

- Update the "**Disposition**" module in ASCAP.
- Generate the CIMS Services Transaction (DHS-5S) from **forms** in **ASCAP**.
- Review of **all** ASCAP modules **and** update information as needed.
- Enter a brief statement of the nature of the contact and who was present in **Contact Details** module of ASCAP.
- Record expanded details of the contact in **General Narrative**, by clicking on **Add to & Go To Narrative** button in **Contacts** module.
- Record summary of progress in service plan by clicking on **Insert New Progress Statement in General Narrative** button, found in any of the **Service Plan** tabs.

(ASM 363, page 6 of 24 (emphasis in original); Exhibit 1, page 14)

In this case, it is undisputed that the sixth month review, required by the above policies, was never conducted and that no home visit has taken place since ██████████. Additionally, both ASW ██████████ and Appellant's representative's testimony confirm that attempts were made by ASW ██████████ to conduct a home visit and that Appellant was either unavailable or out-of-town on those occasions.

The one dispute that does exist is whether ASW ██████████ told Appellant's representative that he would not conduct a home visit outside of ██████████ after Appellant's representative advised him that she and Appellant were living in a hotel in ██████████. With respect to that dispute, this Administrative Law Judge finds ASW ██████████ to be credible in light of his consistent testimony and numerous attempts to schedule the home visit. Moreover, this Administrative Law Judge would also note that Appellant's representative's testimony

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confirms that she never provided ASW ██████████ with a specific address in ██████████.

It is the responsibility of Appellant to keep the Department apprised of his current address. Here, Appellant clearly failed to do so and the Department was unable to conduct the home visit and reassessment required by policy. Accordingly, the Department's decision to terminate HHS must be sustained.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated Appellant's HHS based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Lisa Gigliotti
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

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Date Mailed: 11/29/2011

***** 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 March 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.