

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2011-30655 HHS

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████. ██████████, Appellant ██████████ ██████████ chore provider, represented Appellant and testified on his behalf. Appellant also testified on his own behalf. ██████████, represented the Department of Community Health. ██████████ Appellant's Adult Services Worker at the ██████████ DHS-HHS Office, appeared as a witness for the Department.

ISSUE

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

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.
2. Appellant has been diagnosed with degenerative disc disease and manic depression/bipolar disorder. (Exhibit 1, page 8).
3. On ██████████, Appellant applied for HHS. (Exhibit 1, page 10).
4. In conjunction with that application, Appellant's physician completed a DHS 54-A Medical Needs Form. However, Appellant's physician did not certify a medical need for any of the specified personal services. (Exhibit

1, page 9).

5. On ██████████, the Department issued an Adequate Negative Action Notice denying HHS, due to the lack of certification of need by the Appellant's physician. (Exhibit 1, pages 5-8).
6. On ██████████, the Department received Appellant's Request for Hearing. (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 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.

Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") addresses the need for a Medical Needs form certifying a medical need for the specified personal services prior to authorizing HHS:

Necessity For Service

The adult service worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
 - Physician.

- Nurse practitioner.
- Occupational therapist.
- Physical therapist.

Exception: DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

If the medical needs form has not been returned, the adult services worker should follow-up with the client and/or medical professional.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

Do **not** authorize HHS prior to the date of the medical professional signature on the DHS-54A.

(ASM 363, page 9 of 24)

As described above, ASM 363 expressly provides the ASW must have verification of medical need from a Medicaid enrolled provider in order to authorize HHS. In this case, the Appellant's physician did not certify a need for assistance with any of the listed personal care services on the DHS 54-A Medical Needs form. (Exhibit 1, page 9). The Appellant's representative testified that she was not present for the appointment where the form was filled out and she requests that the ASW call Appellant's physician directly in order to discuss Appellant's current condition. However, the policy is clear in this case and the medical needs form unambiguous. The Department properly denied the HHS application based on the information available at that time of the decision as the Appellant's doctor did not certify that the Appellant has a medical need for personal assistance services.


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The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly denied the Appellant application for HHS based on the available information.

IT IS THEREFORE ORDERED that:

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

Steven Kibit
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:



Date Mailed: 6/24/2011

***** 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.