

**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:

Docket No. 2011-52477 HHS  
Case No. [REDACTED]

[REDACTED]  
Appellant  
\_\_\_\_\_ /

**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 [REDACTED], the Appellant's daughter, appeared on the Appellant's behalf. [REDACTED] the Appellant, appeared and testified. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Adult Service Worker (ASW), and [REDACTED], ASW, appeared as witnesses for the Department.

**ISSUE**

Did the Department properly propose a termination of the Appellant's Home Help Services (HHS) case?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a [REDACTED] year old Medicaid beneficiary who was receiving Home Help Services.
2. The Appellant has been diagnosed with emphysema, COPD, arthritis, migraines, deafness, diabetes, muscle spasm, degenerative disc disease, fibromyalgia, double vision, macular degeneration, and limited range of motion due to shoulder placement. (Exhibit 1, pages 14-15, and 18; Exhibit 2, pages 3-4)

3. On ██████████, ASW ██████████ completed a home visit regarding the Appellant's Home Help Services case. The Appellant was given a DHS-54A Medical Needs form for her doctor to complete. (Exhibit 1, page 16)
4. On ██████████, the Department received a completed DHS-54A Medical Needs form signed by the Appellant's physician on ██████████, that did not certify a medical need for assistance with any of the listed personal care activities. (Exhibit 1, page 14)
5. Department policy requires verification of a medical need for assistance by a Medicaid enrolled physician, nurse practitioner, occupational therapist, or physical therapist. *Adult Services Manual (ASM 362) 12-1-2007, Page 2 of 5 and Adult Services Manual (ASM 363) 9-1-2008, Pages 7-9 of 24.*
6. On ██████████, the Department issued an Advance Negative Action Notice to the Appellant indicating her Home Help Services case would terminate effective ██████████, because her doctor did not certify a medical need for services. (Exhibit 1, pages 6-8)
7. On ██████████, the Department received an altered copy of the DHS-54A Medical Needs form signed by the Appellant's physician on ██████████ with the "no" checkbox whitened out, the "yes" checkbox marked with an "x" and circles around all of the listed personal care activities. (Exhibit 1, pages 15-17 and ASW ██████████ Testimony)
8. On ██████████, ASW ██████████ called the Appellant's doctor's office regarding the DHS-54A Medical Needs form. The staff had suggested contacting the prosecutor's office or a lawyer. The staff and the doctor were concerned about talking with DHS about their patient and the doctor hung up stating he did not have time to talk with the ASW. (Exhibit 1, page 17)
9. On ██████████, the Department issued an Advance Negative Action Notice to the Appellant indicating her Home Help Services case would terminate effective ██████████, noting the first notice of this action had been issued on ██████████, and was being re-sent because the Appellant did not receive the first letter. (Exhibit 1, pages 9-13)
10. The Appellant requested a formal, administrative hearing contesting the termination on ██████████. (Exhibit 1, pages 4-5)

### **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 (ASM 362) 12-1-2007, page 2 of 5 addresses the issue of eligibility for Home Help Services:

- The client must be eligible for Medicaid.
- Have a scope of coverage code of:
  - 1F or 2F.
  - 1D or 1K, (Freedom to Work), **or**
  - 1T (Healthy Kids Expansion).
- The client must have a need for service, based on
  - Client Choice, **and**
  - Comprehensive Assessment (DHS-324) indicating a functional limitation of level 3 or greater in ADL or IADL.
- Medical Needs (DHS 54A) form signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:
  - Physician.
  - Nurse practitioner.
  - Occupational therapist.
  - Physical therapist.

Adult Services Manual (ASM 362) 12-1-2007,  
Page 2 of 5  
(Exhibit 1, page 15)

Adult Services Manual (ASM 363) 9-1-2008, pages 7-9 of 24 also addresses the issue of eligibility for Home Help Services:

### **ELIGIBILITY FOR HOME HELP SERVICES**

Home help services (HHS) are defined as those which the department is paying for through Title XIX (Medicaid) funds. The client must be eligible for Medicaid in order to receive these services.

### **Medicaid/Medical Aid (MA)**

Verify the client's Medicaid/Medical aid status.

The client may be eligible for MA under one of the following:

- All requirements for MA have been met, **or**
- MA deductible obligation has been met.

The client must have a scope of coverage of:

- 1F or 2F, **or**
- 1D or 1K (Freedom to Work), **or**
- 1T (Healthy Kids Expansion).

Clients with eligibility status 07 (Income scale 2-Non MA) and scope of coverage 20 or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

An ILS case may be opened (service program 9) to assist the client in becoming MA eligible. However, do **not** authorize HHS payment prior to the MA eligibility date. The payment must be prorated if the eligibility period is less than the full month. To prorate, divide the monthly care cost by the number of days in the month. Then, multiple that daily rates by the number of eligible days.

**Note:** A change in the scope of coverage by the eligibility specialist (ES) will generate a DHS-5S for cases active to services programs 1, 7, and 9.

### **Necessity For Service**

The adult services 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.

Adult Services Manual (ASM 363) 9-1-2008,  
Pages 7-9 of 24

In order to authorize Home Help Services, the Adult Services Manual requires verification of medical need for assistance by a Medicaid enrolled provider. The Appellant was given a DHS-54A Medical Needs form to be completed by her doctor during the [REDACTED], home visit. (Exhibit 1, page 16) On [REDACTED], the Department received a completed DHS-54A Medical Needs form signed by the Appellant's physician on [REDACTED], that did not certify a medical need for assistance with any of the listed personal care activities. (Exhibit 1, page 14) Accordingly, ASW Young issued the [REDACTED], Advance Negative Action notice indicating the Appellant's Home Help Services case would terminate [REDACTED]. (Exhibit 1, pages 6-8)

On [REDACTED], the Department received an altered copy of the DHS-54A Medical Needs form signed by the Appellant's physician on [REDACTED], with the "no" checkbox whitened out, the "yes" checkbox marked with an "x" and circles around all of the listed personal care activities. (Exhibit 1, pages 15-17 and ASW [REDACTED] Testimony) On [REDACTED] ASW [REDACTED] called the Appellant's doctor's office regarding the DHS-54A Medical Needs form. The staff had suggested contacting the prosecutor's office or a lawyer. The staff and the doctor were concerned about talking with DHS

about their patient and the doctor hung up stating he did not have time to talk with the ASW. (Exhibit 1, page 17)

The Appellant and her daughter disagree with the termination and asserted that the DHS-54A Medical Needs form was not fraudulently altered. An ██████████, letter from the Appellant's doctor was submitted stating neither the Appellant nor himself tampered with the medical papers. Rather, the doctor stated he marked the box from a "no" to a "yes." The doctor further stated he circled all of the needs she may have and had her cross off what she didn't need. (Exhibit 3, emphasis added by ALJ)


On ██████████, a third copy of the DHS-54A Medical Needs form was submitted to the Michigan Administrative Hearing System with a written statement indicating the Appellant's daughter would be helping the Appellant at the hearing. On this copy, three of the circled personal care activities also have an "x" marked over them. (Exhibit 2, page 3) However, no tasks were crossed off on the copy of the DHS-54A Medical Needs form the Department received on ██████████. (Exhibit 1, page 15) Further, the doctor's statement indicates he did not actually certify a medical need for assistance with any of the specific personal care activities. Rather the doctor circled all the activities the Appellant may need assistance with and left it up to the Appellant to mark off what she did not need assistance with.

In this case, the policy is clear; verification is required from a Medicaid enrolled medical professional certifying the client's medical need for services. The Appellant's doctor did not certify that the Appellant has a medical need for assistance on the DHS-54A Medical Needs form submitted to the Department on ██████████. (Exhibit 1, page 14) The Department properly proposed a termination of the Appellant's Home Help Services application based on the information available at that time.

When ASW ██████████ contacted the Appellant's doctor's office regarding the altered copy of the DHS-54A Medical Needs form the Department received on ██████████, the doctor's office did not indicate the doctor had made or authorized any of the changes. Accordingly, ASW ██████████ was never given verification of the Appellant's medical need for HHS. The further altered version of the DHS-54A Medical Needs form and the ██████████, statement from the Appellant's doctor submitted for the appeal proceedings are also not sufficient to show that she has a medical need for assistance with any of the specific personal care services. Accordingly, the Department's determination to terminate the Appellant's HHS case is upheld.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department properly terminated the Appellant's Home Help Services case.

  
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**IT IS THEREFORE ORDERED** that:

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

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Colleen Lack  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:



Date Mailed: 12/7/2011

**\*\*\* 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.