

**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. 2012-24659HHS

Case No. ██████████

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, represented herself and testified. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker, testified for the Department.

ISSUE

Did the Department properly deny the Appellant's application for 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. The Appellant is a Medicaid beneficiary who resides in her Lansing, Michigan home.
2. The Appellant has been diagnosed with chronic fatigue syndrome (Epstein Barre Syndrome)
3. On ██████████, the Department of Human Services, Adult Services unit received a referral from HHS and an Adult Services Worker was assigned.
4. On ██████████, Adult Services staff sent the Appellant a DHS-54 Medical Needs form with a DHS-390 Application for Home Help Services with a cover letter. The Appellant was informed to complete and sign both forms and return them before ██████████.

5. As of ██████████, the Appellant did not return the completed and signed DHS-54A or a completed and signed DHS-390.
6. On ██████████, ██████████ sent the Appellant an Adequate Action Notice which informed the Appellant that her HHS was denied because the Department had not received a completed DHS-54A or completed DHS-390.
7. On ██████████, the Michigan Administrative Hearing System received the Appellant's request for hearing.

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.

The Department of Community Health HHS Medicaid policy is found in the Department of Human Services Adult Services Manual (ASM) at ASM 100-170. The Department of Human Services issued Interim Policy Bulletin ASB 2011-001 with an effective date of October 1, 2011. This Interim Policy limits HHS eligibility for Medicaid beneficiaries with a medical need for assistance with one or more ADLs at a ranking of 3 or higher. On January 1, 2012, the Department of Human Services issued Adult Services Manual 120 which incorporated the provisions of Interim Policy Bulletin ASB 2011-001.

ASM 120, page 1-3 provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

The DHS-324, Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on **all open independent living services cases**. ASCAP, the automated workload management system, provides the format for the comprehensive assessment and all information must be entered on the computer program.

Requirements

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 client in his/her place of residence.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as necessary, but minimally at the six month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.
 - Use the DHS-27, Authorization To Release Information, when requesting client information from another agency.
 - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. This form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion adult protective services cases; see SRM 131, Confidentiality.

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the home help services payment. Conduct a functional assessment to determine the client'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

ADLs and IADLs 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

Home help payments may only be authorized for needs assessed at the level 3 ranking or greater. An individual

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must be assessed with at least one activity of daily living in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

See ASM 121, Functional Assessment Definitions and Ranks for a description of the rankings for activities of daily living and instrumental activities of daily living.

ASM 120, pp1-3.

The evidence presented shows that on ██████████, Adult Services staff received a referral for HHS and in response sent the Appellant a cover letter which informed the Appellant that she needed to submit a completed and signed DHS-54A and DHS-390 by ██████████. Subsequently Adult Services staff did not receive the completed signed forms.

██████████ testified that she was the assigned Adult Services Worker and that she never received a completed and signed DHS-54A or a completed and signed DHS-390. ██████████ testified that an incomplete DHS-54A was received by the Department but the form was dated ██████████, which is before the ██████████ HHS referral date. ██████████ testified that the cover letter sent to the Appellant informed the Appellant that she had until ██████████ to complete, sign and return the forms but no forms were received by the Department. Therefore on ██████████ ██████████ sent the Appellant a Negative Action Notice informing her that the Appellant's HHS application was denied.

The Appellant testified that a Social Worker at the Nursing Home sent the HHS referral to the Department of Human Services. The Appellant testified that she could not get the DHS-54A completed by her physician because the Appellant was told she did not have active Medicaid. The Appellant testified that her Medicaid eligibility worker ██████████, told the Appellant that the Appellant was on a Medicaid spend-down and did not meet her spend-down so the Appellant had no Medicaid coverage. The Appellant testified that she sent the forms to ██████████ because the Appellant knew that she could not get the 54A completed and would not be eligible for HHS without active Medicaid. The Appellant testified that ██████████ did not respond to the Appellant's telephone calls and voice messages. The Appellant states that she completed the HHS application but forgot to sign the application and it was returned to her. The Appellant testified that she believe that ██████████ should have resolved the Appellant's Medicaid eligibility issues and forwarded the forms to ██████████.

██████████ testified that the Appellant's application could not be approved because the Department did not receive a completed and signed DHS-54A and a completed and

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signed DHS-390. ██████████ testified that the Appellant brought a completed and signed DHS-54A to the hearing but the Appellant's physician indicated on the form that the Appellant had no medical need for HHS.

The evidence presented also shows that on ██████████, the Department received a referral for HHS and in response sent the Appellant a DHS-54A and DHS-390 with instructions to complete, sign, and return the forms by ██████████. The evidence provided also shows that the Appellant failed to return the completed forms by ██████████, and the Department properly denied the Appellant's application for HHS.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: ██████████
██████████
██████████

Date Mailed: 5/2/2012

***** 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.