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. 2012-26930 HHS

[redacted],

Appellant

[redacted]/

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 [redacted]. The Appellant was represented by his legal guardian, [redacted]. She had no witnesses. [redacted] R.N., Appeals Review Officer, represented the Department. Her witnesses were Paul Bowmaster, ASW supervisor and [redacted], ASW.

ISSUE

Did the Department properly establish the start date of Home Help Services (HHS) for the Appellant?

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 disabled [redacted]-year-old Medicaid beneficiary. (Appellant's Exhibit #1)

2. The Appellant has recently moved from [redacted] County to [redacted] County. (*See* Testimony, Appellant's Exhibit #1 and Department's Exhibit A, p. 14)

3. The Appellant alleges disability by way of depression, anxiety, impulse control disorder, ADHD, and mental retardation. (Department's Exhibit A, page 23)

4. The Appellant said his Medical Needs form was late because he didn't know they had to get "a simple doctor appointment." (Department's Exhibit A, page 7)

5. The Department representative said that the Appellant's application was acted upon and approved on via DHS-1210A Services Approval notice on [redacted]. (*See* Testimony and Department's Exhibit A, pp. 10, 11 and 14 – 19)

6. On [redacted] a correctly completed DHS-54A reached the Department and HHS was approved thereafter. (Department's Exhibit A, p. 15)

7. Following a stint in an AFC home in early [redacted] the Appellant returned home and sought HHS services while a resident in [redacted] County. There was relocation by the family to a different county and several improperly prepared DHS-54A forms. (Department's Exhibit A, page 15 and Joint B)

8. The Appellant's representative alleges miscommunication from the Department of Human Services and seeks an equitable remedy from the ALJ. (Appellant's Exhibit #1)

9. The request for hearing on the instant appeal was received by the Michigan Administrative Hearings System (MAHS) for the Department of Community Health on [redacted]

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.

COMPREHENSIVE ASSESSMENT

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 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.

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Adult Service Manual (ASM), §120, page 1 of 6, 11-1-2011.

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. A completed DHS-54A or veterans administration medical form are acceptable for individual treated by a VA physician; see ASM 115, Adult Service Requirements.

ASM §105, page 2 of 3, November 1, 2011

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ADULT SERVICES REQUIREMENTS - FORM (DHS-54A)

The DHS-54A, Medical Needs form must be 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 (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

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The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

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. Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

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

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

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is before the date on the DHS-390, payment for home help services must begin on the date of the application.

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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. (Emphasis supplied by ALJ) ASM 115, pages 1 and 2 of 3, *Supra*

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The Department witness testified that upon receipt of an appropriately completed Medical Needs form DHS-54A the Appellant's case was approved and HHS benefits were awarded. She further explained that she could not authorize payment until the properly completed DHS-54A Medical Needs form had been received – as required by policy.

The Appellant's representative argued that the process was unfair and that owing to miscommunication the Appellant delayed pursuing his HHS benefits anew.

The Appellant's series of DHS-54A Medical Needs forms were problematic – they were rife with error and each standing alone would have merited denial of HHS benefits by the Department.

However, the Department waited for the properly completed medical needs form and upon receipt in [redacted] – authorized services.

It is axiomatic under ASM policy that it is the *client's* responsibility to secure a properly completed Medical Needs form – it is not the Department's responsibility. While the Appellant argues otherwise – the ALJ is not permitted to apply an equitable remedy – but must apply policy as written.

Accordingly, the Department's action in approving HHS on [redacted] was properly applied to the Appellant's case.

The Adult Service Manual clearly states – as underscored above – that HHS benefits cannot issue prior to signature by the medical professional. Accordingly, the Appellant has failed to preponderate his burden of proof.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly established the Appellant's HHS on January 18, 2012.

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]

[redacted]

Date Mailed: 5-25-12

***** 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.