

**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. 2012-33684 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 ██████████. ██████████, appeared on the Appellant's behalf. ██████████, the Appellant, was present. ██████████, chore provider, was present as a witness for the Appellant. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, were present as Department witnesses.

ISSUE

Did the Department properly suspend Home Help Services ("HHS") payments to 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 Medicaid beneficiary who was receiving HHS.
2. In ██████████, the Appellant changed chore providers. (Exhibit 1, page 4)
3. On ██████████, a DHS-2351/DHS-2351X, Model Payment Provider Enrollment Request/Status Notice was printed for the Appellant's HHS case. (Exhibit 1, page 6)
4. On ██████████, the ASW spoke with the Appellant by phone about the payment to her previous provider. Specifically, they discussed the need to get the prior provider's address changed to a current address so

that the ASW could issue final payment. To expedite the process, and make it possible to enroll a new provider, the ASW asked the Appellant if he could send a check for a half month for the last month the prior provider worked, based on the log that was submitted for that month. (Exhibit 1, page 7)

5. The Appellant's HHS payments stopped effective ██████████. (Exhibit 1, page 9)
6. In ██████████, the ASW received a MSA-4676 Home Help Services Statement of Employment and a copy of an ID for a new chore provider for the Appellant. This form listed a start date of ██████████. The address listed on the new provider's ID did not match the address listed on the MSA-4676 Home Help Services Statement of Employment form. (ASW Testimony)
7. The ASW mailed a letter to the new chore provider at the address on her ID indicating he needed a copy of an ID with her current address to complete the provider enrollment. (ASW Testimony)
8. The ASW still needs a copy of an ID with the new provider's current address to complete her enrollment as the new HHS provider for the Appellant. (ASW Testimony)
9. 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 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 Adult Services Manual policy regarding HHS providers and payment authorization in effect in July 2011 states:

HOME HELP SERVICE PROVIDERS

Provider Selection

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs.

The client may receive DHS payment for home help services from **qualified** providers only.

The determination of provider qualification is the responsibility of the adult services worker.

Provider Interview

Explain the following points to the client and the provider during the initial interview:

- The provider is employed by the client **not** the State of Michigan.
- A provider who receives public assistance **must** report all income received as a home help provider to the FIS/ES.
- The client is the employer and has the right to hire and fire the provider.
- The client is responsible for notifying the worker of any change in providers or hours of care.
- The services the provider is responsible for and has agreed to deliver including the frequency, amount and type of service.
- The provider **must** keep a log of the services provided Personal Care Services Provider Log ([DHS-721](#)) and submit it on a quarterly basis. The client **must** sign the Authorization for Withholding of FICA Tax in Home Help Payments ([DHS-4771](#)).
- All earned income must be reported to the IRS. (See www.irs.gov/)
- The client **and** provider **must** sign the Home Help Services Statement of Employment (MSA-4676).

Home Help Services Statement of Employment (MSA_4676)

The purpose of the Home Help Services Statement of Employment (MSA-4676) is to serve as an agreement

between the client and provider which summarizes the general requirements of employment. The form is completed by the adult services worker as part of the provider enrollment process.

An employment statement must be signed by **each** provider who renders service to a client.

The statement:

- Confirms an understanding of the personal care services provided, how often services are provided, and wages to be paid.
- Requires positive identification of the provider by means of a picture ID.

PAYMENT AUTHORIZATION

Payment Authorization System

Enter home help provider payments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS database.

Adult Services Manual (ASM) 363, 9-1-2008,
Pages 16-19 of 24.

The Adult Services manual Policy was updated effective November 1, 2011 and states:

PROVIDER SELECTION

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. Home help services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the adult services specialist.

PROVIDER INTERVIEW

An initial face-to-face interview must be completed with the home help provider. A face-to-face or phone contact must be made with the provider at the six month review or redetermination to verify services are being furnished.

Explain the following points to the client and the provider during the initial interview.

- The provider is employed by the client **not** the State of Michigan.
- As the employer, the client has the right to hire and fire the provider.
- A provider who receives public assistance **must** report all income received as a home help provider to their family independence specialist or eligibility specialist.
- The client and provider are responsible for notifying the adult services specialist within **10 business days** of any change in providers or hours of care.
- The provider and/or client is responsible for notifying the adult services specialist within **10 business days** if the client is hospitalized.

Note: Home help services **cannot** be paid the day a client is admitted into the hospital but **can** be paid the day of discharge.

- The provider **must** keep a log of the services provided on the DHS-721, Personal Care Services Provider Log and submit it on a quarterly basis. The log must be signed by both the provider and client or the client's representative.
- **All** earned income must be reported to the IRS; see www.irs.gov.
- No federal, state or city income taxes are withheld from the warrant.
- Parents who are caring for an adult child do not have FICA withheld.

Note: Parents who wish to have FICA withheld must be assigned in ASCAP as other relative in the Provider Assignment screen.

- **All** individual providers will receive a W-2 by the Michigan Department of Community Health.
- Provider must display a valid picture identification card and social security card.
- The client **and** provider **must** sign the MSA-4676, Home Help Services Statement of Employment, before payments are authorized.

Note: Providers determined to be a business/agency are exempt from signing the MSA-4676.

- **All** providers **must** sign a MSA-4678, Home Help Services Provider Agreement, before payments are authorized.

Note: Providers are required to complete and sign the agreement only **once**. If there is a signature date on Bridges/ASCAP provider screen, another MSA-4678 does not need to be completed and signed.

Adult Services Manual (ASM) 135, 11-1-2011,
Page 1-3 of 7

ADULT SERVICES AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges.

Adult Services Manual (ASM) 140, 11-1-2011,
Page 1 of 3

In the present case, the Appellant changed chore providers in ██████████. (Exhibit 1, page 4) Under the policy that was effect in ██████████ and the new policy that went into effect ██████████, it was the Appellant's responsibility to notify the Department of a change in providers, a new MSA-4676 Home Help Services Statement of

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Employment is required, picture ID of the new provider is needed and payments can not be made until the provider is enrolled.

The Department has not terminated the Appellant's HHS case. Her HHS payments stopped because she changed providers, and a copy of an ID with the current address of the new chore provider is needed to complete enrollment. Payments cannot be made unless a provider is enrolled. While this ALJ agrees it has taken a very long time for this process, the delays have been caused by both parties.


It is clear that the Department was aware that the Appellant was changing providers at least as of [REDACTED], when the ASW spoke with the Appellant by phone about the payment to her previous provider. Specifically, they discussed the need to get the prior provider's address changed to a current address so that the ASW could issue final payment. To expedite the process, and make it possible to enroll a new provider, the ASW asked the Appellant if he could send a check for a half month for the last month the prior provider worked, based on the log that was submitted for that month. (Exhibit 1, page 7)

The ASW's testimony that the Appellant and her new provider did not submit the MSA-4676 Home Help Services Statement of Employment until [REDACTED] was not contested. It is not clear why it took from [REDACTED] to [REDACTED] for the Appellant and her new HHS provider to submit the paperwork needed for a new provider to be enrolled.

The ASW explained that he could not complete the provider enrollment when he received the paperwork in [REDACTED] because the copy of the ID for the new chore provider had an old address, rather than the chore provider's current address as listed on the MSA-4676 Home Help Services Statement of Employment. However, it is not clear why the only attempt the ASW made to let the Appellant and her new chore provider know that there was a problem was to mail a letter to the chore provider at her old address. The ASW should have sent mail to the chore provider at her current address. He also could have called and/or sent a letter to the Appellant to let her know there was a problem. Further, the ASW's testimony indicated the Appellant's HHS case was overdue for an assessment. Had the ASW completed the assessment when it was due, he could have let the Appellant and her chore provider know a copy of an ID with a current address for the provider was still needed.

However, under the above cited policy, the Department can not make HHS payments for the Appellant case unless a provider has been enrolled. Accordingly, it was appropriate for the Department to stop HHS payments to the Appellant until the enrollment of her new provider could be completed.

If she has not already done so, the Appellant should ensure that a copy of her new chore provider's ID with the current address is provided to the ASW so the provider enrollment can be completed.


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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department properly suspended HHS payments for the Appellant until a new HHS provider can be enrolled.

IT IS THEREFORE ORDERED that:

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

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

cc:



Date Mailed: ___ June 6, 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.