

**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. 2012-34275 HHS

██████████

██████████

██████████

Appellant

_____ /

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 on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker and ██████████ Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

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

FINDINGS OF FACT

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

1. On ██████████ the Department received a referral for the Appellant for the HHS program. (Exhibit 1, page 5)
2. On ██████████, the Department sent the Appellant an Independent Living Services (ILS) introduction letter, DHS-390 Adult Services Application and DHS-54A Medical Needs form. (Exhibit 1, page 6)
3. A DHS-54A Medical Needs form was also requested regarding the Appellant's spouse. (Adult Services Worker and Adult Services Supervisor Testimony)
4. On ██████████, the Department received the DHS-390 Adult Services Application. (Adult Services Worker Testimony)

5. On ██████████, the Department sent an Adequate Action Notice to the Appellant stating the HHS referral was denied because the Department did not receive the Medical Needs forms for the Appellant or her spouse. (Exhibit 1, pages 6-9)
6. On ██████████, the Department received a second referral for the Appellant for the HHS program. (Exhibit 1, page 5)
7. On ██████████, the Department sent the Appellant an Independent Living Services (ILS) introduction letter, DHS-390 Adult Services Application and DHS-54A Medical Needs form. (Exhibit 1, page 12)
8. Additional DHS-54A Medical Needs forms were printed on ██████████. (Exhibit 1, page 12)
9. On ██████████, the Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, page 4)
10. On ██████████, the Department sent an Adequate Action Notice to the Appellant stating the HHS referral was denied because the Department did not receive the Medical Needs forms for the Appellant or her spouse. (Exhibit 1, page 12)
11. In ██████████ DHS-54A Medical Needs forms were received from the Appellant's doctor and her spouse's doctor. The Adult Services Worker also made calls to both doctor's offices for clarification. (Adult Services Worker and Adult Services Supervisor Testimony)

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.

Adult Services Manual (ASM) 115, 11-1-2011, page 1 of 3 addresses Adult Services Requirements:

APPLICATION FOR SERVICES (DHS-390)

The client must complete and sign a DHS 390, Adult Services Application to receive independent living services. An authorized representa-

tive or other person acting for the client may sign the DHS-390 if the client either:

- Is incapacitated.
- Has a court-appointed guardian.

A client unable to write may sign with an X, witnessed by one other person (for example, relative or department staff). The adult services specialist **must not** sign the DHS-390 on behalf of the client.

The DHS-390 remains valid unless the case record is closed for more than 90 days.

MEDICAL NEEDS 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.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

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 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.

Adult Services Manual (ASM) 110, 11-1-2011, page 1 of 2 addresses the referral process:

REFERRAL INTAKE

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

Registration and Case Disposition Action

Complete a thorough clearance of the individual in the ASCAP client search and Bridges search.

Complete the **Basic Client** and **Referral Details** tabs of the **Client** module in **ASCAP**.

Supervisor or designee assigns case to the adult services specialist in the **Disposition** module of **ASCAP**.

Documentation

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendar days to return the documentation to the local office.

Note: The introduction letter does **not** serve as adequate notification if home help services are denied. The specialist must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

*Adult Services Manual (ASM) 110, 11-1-2011,
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On ██████████, the Department received a referral for the Appellant for the HHS program. (Exhibit 1, page 5) That same date, ██████████ the Department sent the Appellant an Independent Living Services (ILS) introduction letter, DHS-390 Adult Services Application and DHS-54A Medical Needs form. (Exhibit 1, page 6)

The HHS policy does not cover services that a spouse is able and available to provide. A spouse's disabilities must be documented on a DHS-54A Medical Needs form. *Adult Services Manual (ASM) 101, 11-1-2011 page 3 of 4 and Adult Services Manual (ASM) 120 11-1-2011 page 4 of 5.* Accordingly, the Department also requested a DHS-54A Medical Needs form regarding the Appellant's spouse. (Adult Services Worker and Adult Services Supervisor Testimony)

The Department received the DHS-390 Adult Services Application on ██████████ (Adult Services Worker Testimony) However, the DHS-54A Medical Needs forms were

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not returned within [REDACTED] days of [REDACTED] Independent Living Services introduction letter. (Adult Services Worker Testimony) Accordingly, on [REDACTED], the Department denied the Appellant's [REDACTED] referral for HHS. (Exhibit 1, pages 5-9 and 11)

On [REDACTED], the Department received a second referral for the Appellant for the HHS program. (Exhibit 1, page 5) On [REDACTED], the Department sent the Appellant an Independent Living Services (ILS) introduction letter, DHS-390 Adult Services Application and DHS-54A Medical Needs form. (Exhibit 1, page 12) Additional DHS-54A Medical Needs forms were printed on [REDACTED]. (Exhibit 1, page 12)

The Department did not receive the DHS-54As back within [REDACTED] days of the [REDACTED] Independent Living Services Introduction letter. (Adult Services Worker Testimony) Accordingly, on [REDACTED] the Department denied the Appellant's [REDACTED] referral for HHS. (Exhibit 1, pages 5 and 12-13)

The DHS-54A Medical Needs form regarding the Appellant's spouse was not received until [REDACTED]. The Adult Services Worker called the Appellant's spouse's doctor's office, who confirmed that he did not need assistance with the listed personal care activities and that he is able to assist the Appellant with these activities. (Adult Services Worker and Adult Services Supervisor Testimony)

The first DHS-54A Medical Needs form regarding the Appellant was not received until [REDACTED]. The Adult Services Worker explained that there were inconsistencies on the form, so she called the Appellant's doctor's office for clarification on [REDACTED]. A second DHS-54A Medical Needs form was received from the Appellant's doctor's office on [REDACTED] (ASW Testimony)

The Appellant disagrees with the denials and testified that the Department should have received the documentation from her doctor's office in [REDACTED]. She explained that the doctor's office was supposed to send a fax to the Department the same day she went there in [REDACTED]. The Appellant stated she sees one doctor every three months and another doctor every month. The Appellant noted that the Adult Services Worker had been on vacation in [REDACTED]. She also stated she had tried to ask if the Department received the first letter. (Appellant Testimony)

Regarding her husband, the Appellant asserted that he is disabled, cannot work, and cannot assist her. She explained that the March DHS-54A Medical Needs form regarding her husband was completed by a doctor that only saw him once for a heart check and does not know him well. The Appellant indicated her husband has other doctors, but saw this one because he had just moved. (Appellant Testimony)

While there would be additional HHS eligibility issues based on the information provided by the Appellant's spouse's his doctor's office in [REDACTED] [REDACTED] and [REDACTED] denials at issue in this case were based on the required forms not being returned within the [REDACTED] day timeframe.

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The Department policy only allows for [REDACTED] calendar days from when the introduction letter and forms are sent for the required forms, the DHS-309 Adult Services Application and the DHS-54A Medical Needs, to be completed and returned. In response to the [REDACTED] and [REDACTED] referrals, the Department sent introduction letters and required forms to the Appellant on [REDACTED] and [REDACTED]. The Appellant testified that her doctor's office was supposed to fax documentation in the day she was there in [REDACTED]. Unfortunately, there is no evidence showing that the doctor's office actually sent anything to the Department in [REDACTED]. There is also no evidence that DHS-54A Medical Needs forms were returned in [REDACTED]. The Adult Services Worker credibly testified that the DHS-54A Medical Needs forms were not received until [REDACTED]. Accordingly, the Department's determinations to deny the Appellant's HHS referrals because the required forms were not returned within the [REDACTED] day timeframe must be upheld.

The Appellant can always reapply for the HHS program and provide documentation from a doctor who is more familiar with her husband regarding his disabilities and his ability to assist the Appellant with personal care activities.

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 HHS referrals because the required documentation was not returned within the [REDACTED] day timeframe.

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:

[REDACTED]

Date Mailed: 5-23-12

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***** 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.