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. 2012-52140 HHS
Case No.

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.* and upon the Appellant's request for a hearing.

After due notice, a hearing was held on Appellant's mother and legal guardian, appeared and testified on his behalf. a social worker, and a relative, also testified on Appellant's behalf. , Appeals Review Officer, represented the Department of Community Health. , Home Help Worker, and Adult Services Supervisor, from the Wayne County DHS- District 45 Office appeared as witnesses for the Department.

ISSUE

Did the Department properly deny 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. Near the end of Appellant's mother applied for HHS on his behalf. (Exhibit 1, page 7).

2. As part of the application process, White determined that Appellant would require 72 hours and 14 minutes of assistance per month, with a total care cost of $577.82 per month. (Testimony of White; Exhibit 1, page 12).

3. Since Appellant has had a monthly deductible/spend-down of $774.00 that must be met before his Medicaid would become active. (Exhibit 1, page 13).

4. Appellant has never met that deductible/spend-down and he has never been eligible for Medicaid. (Testimony of White).

5. On the Department sent Appellant an Adequate Negative Action Notice providing that Appellant's application for HHS is denied as Appellant's monthly care needs are not enough to cover his spend down expenses. (Exhibit 1, page 5).

6. On the Department received Appellant's Request for Hearing. (Exhibit 1, page 4).

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 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.

Appellant has a "20" scope of coverage with respect to Medicaid (Exhibit 1, page 13) and, with respect to Medicaid and that scope of coverage, Adult Services Manual 105 (11-1-11) (hereinafter "ASM 105") provides:

> **Medicaid/Medical Aid (MA)**
>
> 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 a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.
>
> **Note:** A change in the scope of coverage in Bridges will generate a system tickler in ASCAP for active services cases.

Medicaid Personal Care Option

Clients in need of home help personal care services may become eligible for MA under the Medicaid personal care option.

Discuss this option with the client and coordinate implementation with the eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is more than the MA excess income amount.

If all the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP.

Use the DHS-1210, Services Approval Notice to notify the client of home help services approval when MA eligibility is met through this option. The notice must inform the client that the home help payment will be affected by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option **cannot** continue if the cost of personal care becomes **equal to or less than** the MA excess income amount.

> **Note:** See Bridges Eligibility Manual (BEM) 545, Exhibit II, regarding the Medicaid Personal Care Option. [ASM 105, pages 1-2 of 3.]

The Department must implement its programs in accordance with its policies. The Department policy listed immediately above mandates that a person with a scope of coverage of 20 is only eligible for Medicaid if the monthly spend-down is met.

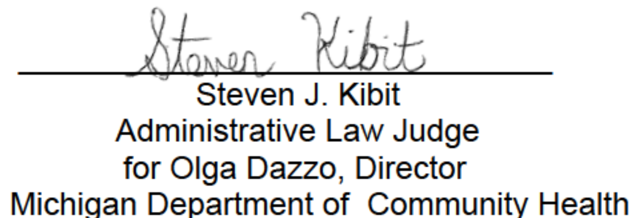
Here, the relevant material facts are not in dispute. Prior to and during the time his application was pending, Appellant has always had a monthly deductible that must be met before his Medicaid becomes active and he has never met that monthly deductible. Moreover, Appellant's spend-down could not be met through the Medicaid Personal Care Option because his monthly care needs would be less than his monthly spend-down. The Department provided credible evidence that the Appellant's Medicaid was not active at the time of the notice of denial and his Medicaid must be active in order to receive HHS. Accordingly, the Department's denial must be affirmed.

DECISION AND ORDER

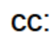
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's application for Home Help Services.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Steven J. Kibit
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: 

Date Mailed: 8/28/2012

*** 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.