STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF COMMUNITY HEALTH

IN THE MATTER OF:

[redacted]

Docket No. 2012-68165 HHS
Case No. [redacted]
Hearing Date: [redacted]

ADMINISTRATIVE LAW JUDGE: Jennifer Isiogu

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Appellant's request for a hearing. After due notice a telephone hearing was held on the above referenced date. The Appellant appeared and testified. Participants on behalf of the Department of Community Health (Department) included [redacted], Appeals and Review Officer, and [redacted], Adult Services Worker.

ISSUE

Did the Department properly deny the Appellant's application for Home Help Services?

FINDINGS OF FACT

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

1. The Appellant is an applicant of Home Help Services (HHS).

2. The Department of Human Services began processing the HHS application in [redacted]. The Appellant was sent a DHS Medical Needs form to have her medical provider complete.

3. The Appellant's medical provider completed the DHS 54A on [redacted] and it was returned to the DHS office the same day.

4. The DHS 54A indicates the Appellant has a medical need for assistance with Instrumental Activities of Daily Living only, specifically, shopping, laundry, housework and meal preparation.

5. The Adult Services Worker completed a home call and functional assessment in [redacted].

6. On [redacted], the Department sent the Appellant notice that the Appellant's application for HHS was denied because the in home assessment resulted in a determination the Appellant did not require physical assistance with at least one Activity of Daily Living.

7. On [redacted], 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. ASM 110, pp. 1-2 provides that HHS policy for the HHS referral intake and registration. ASM 110 provides in pertinent part:

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 calendars 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.

Standard of Promptness (SOP) — The adult services specialist must determine eligibility within the 45 day standard of promptness which begins from the time the referral is received and entered on ASCAP. The referral date entered on ASCAP must be the date the referral was received into the local office. The computer system calculates the 45 days beginning the day after the referral date and counting 45 calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: A medical need form does not serve as an application for services. If the local office receives the DHS-54A, a referral must be entered on ASCAP for the date the form was received in the local office and an application sent to the individual requesting services.

After receiving the assigned case, the adult services specialist gathers information through an assessment, contacts, etc. to make a determination to open, deny or withdraw the referral; see ASM 115, Adult Services Requirements.

ASM 110, pp. 1-2.

ASM 105, pp. 1-3 provides that HHS policy for the HHS eligibility. ASM 105 provides in pertinent part:

GENERAL — Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened to supportive services to assist the client in applying for Medicaid. Home help services payments cannot be authorized prior to

establishing Medicaid eligibility and a face-to-face assessment completed with the client. Once MA eligibility has been established, the case service methodology **must** be changed to case management.

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Medicaid/Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 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 service 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.

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 Services Requirements.

ASM 105, pp. 1-2.

On [redacted], the Appellant's Adult Services Worker denied the Appellant's HHS application because the Appellant's application did not meet ASM 105 HHS eligibility criteria. Specifically, the Appellant's application was denied because the Department determined the Appellant does not require physical assistance with any Activity of Daily Living as defined in the Adult Home Help Services policy (above). This was determined

following an in-home assessment completed on [redacted]. The determination is supported by the medical needs form completed by the Appellant's own doctor. This form certifies the Appellant has a medical need for assistance only with laundry, shopping, meal preparation and housework. The form confirms her diagnoses of scoliosis of the spine, foot deformity and arthritis. The medical form is dated [redacted].

The Appellant contests the determination. Her request for hearing asserts she needs help getting in and out of the bathtub. Her testimony was consistent with this as well. She said she has a daughter and nieces who help with bathing. She asserted the worker did not represent the words she spoke at assessment accurately. She said she did say to the worker (about bathing) if she had to have her son help her in and out of the tub she could but she would not be comfortable with that. This ALJ asked her why she required assistance with bathing. She said she had prior falls in the tub and her leg can give out.

The ASW testified at hearing she had not been told the Appellant requires help in and out of the bathtub but the Appellant had stated she would not be comfortable with her son doing that.

This ALJ reviewed the documents included in the evidentiary record. They include the narrative notes entered by the ASW following her home call and assessment. It includes the conclusion that the Appellant does not require assistance with an ADL but omits any observations about her functional abilities, gait, or indicate what questions were asked at the assessment. The note does include comments describing the Appellant as having a good appearance, being a black female and that her home is appropriate. Also, the diagnosis are included. They are scoliosis, arthritis, flat feet and possible nerve damage.

This ALJ read and considered the Medical Needs form completed by the Appellant's own doctor before determining whether the Department's action should be sustained or reversed. Additionally, the testimony from the Appellant was carefully considered. The narrative notes from the ASW and her testimony was considered. The DHS 54A medical needs form completed by the doctor is given controlling weight in this instance. The narrative notes do not provide any support to a claim that the assessment was sufficiently detailed to ascertain whether the Appellant required assistance in and out of the bathtub. It cannot be found sufficiently reliable to give controlling weight by this ALJ. The Appellant asserts she does require the help with bathing, however, her doctor did not concur. This ALJ elects to rely on the doctor's indication to resolve the dispute between the parties. The Appellant indicated she had treated with this particular doctor for 1 year. She elected to provide him with the form to complete. Any assertion that it is incorrect as to her needs would have to be refuted with additional medical evidence to be found persuasive.

There is inadequate evidence to find the Department's action was not supported by policy at the time it was taken. The doctor did not certify a need for assistance with any of the Activities of Daily Living as defined in the newer policy, only the Instrumental Activities of Daily Living. This ALJ will uphold the Department's action given this fact. The Appellant is able to re-apply at any time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's Home Help Services decision is AFFIRMED.

\s\
Jennifer Isiogu
Administrative Law Judge
For James K. Haveman, Director
Michigan Department of Community Health

Date Mailed: 11/2/2012

cc: [redacted]

NOTICE: The Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision 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 date of the rehearing decision.

Appellant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

    - misapplication of manual policy or law in the hearing decision,
    - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the Appellant:
    - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearing System
Reconsideration/Rehearing Request
P. O. Box 30763
Lansing, Michigan 48909