

**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) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-76411 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 ██████████. Delores Force appeared on her own behalf.

██████████, 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's enrolled provider telephoned the ASW to inform her she was no longer providing services to the Appellant and had not done so since ██████████. She further indicated the Appellant had not been answering or returning her calls.
3. The ASW suspended HHS payments effective ██████████ based upon the report from the old provider that she had not performed services since ██████████ yet Department records established all checks had been cashed.

Docket No. 2012-76411 HHS
Decision and Order

4. On [REDACTED] the Appellant telephoned the ASW to inquire about the HHS check not coming. She did not mention her provider had quit or had been fired or that she had a new provider.
5. On [REDACTED], the ASW informed the Appellant she knew her old provider had not been providing services. The Appellant was advised she could obtain and enroll a new provider and the ASW attempted to schedule an appointment with her to do that. The Appellant hung up on the ASW.
6. The Appellant telephoned the ASW back on [REDACTED] claiming she did not know when her provider came. She asserted sometimes she would come home and there would be meals already prepared for her.
7. The ASW informed the Appellant she had an appointment to enroll her new provider [REDACTED]. This was not kept.
8. [REDACTED] the Appellant telephoned the ASW to provide a reason for the missed [REDACTED] appointment. A new appointment was scheduled for [REDACTED].
9. The Appellant did not enroll her new provider until [REDACTED]. The ASW approved payment authorization to commence [REDACTED].
10. 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 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 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.

The Appellant wants HHS payments for her alleged provider for [REDACTED] and [REDACTED] of [REDACTED]. The ASW authorized payments to resume [REDACTED]. In the present case, the Appellant changed chore providers. She did not establish she actually had a provider until [REDACTED] when she came into the office to enroll the provider. The ASW approved payments to resume effective [REDACTED]. Given the Appellant's earlier admission that she did not even know when her provider came and the fact that she never reported to DHS that her provider quit or was fired, the ASW was proper to establish definitively that she actually had a new provider before authorizing payments to resume. Additionally, the ASW had reason to be cautious because the checks issued for HHS assistance dating back to [REDACTED] include payment assistance for personal care such as bathing and dressing. Obviously, if the Appellant did not even know whether her provider was showing up or not, she was not receiving personal care from her enrolled provider. However, all these checks were cashed. The ASW was right not to simply accept the word of the Appellant that she had a provider and was receiving services. There is no credible evidence this was occurring.

The above cited Adult Services Policy prohibits the Department from making HHS payments unless a provider has been enrolled. Accordingly, it was appropriate for the Department to suspend HHS payments to the Appellant until the enrollment of her new provider could be completed.

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 was enrolled.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

cc: [REDACTED]

Docket No. 2012-76411 HHS
Decision and Order

Date Mailed: 1/3/2012

***** 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.