

**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. 2013-13588 HHS

Case No. ██████████

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 ██████████. ██████████, the Appellant, appeared on his own behalf. ██████████, son, appeared as a witness for the Appellant. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), appeared as a witness for the Department.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services ("HHS") case?

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 has Medicaid with a monthly deductible, or spend-down. From ██████████ through ██████████, his monthly spend-down was \$██████. From ██████████ through ██████████, his monthly spend-down was \$██████. From ██████████ through ██████████, his monthly spend-down was \$██████. Effective ██████████, his monthly spend-down is \$██████. (Exhibit 1, page 6)
2. Department policy requires Medicaid eligibility in order to receive HHS, and clients with a monthly spend-down are not eligible until they have met their spend-down obligation. (Adult Services Manual (ASM) 105, November 1, 2011, pages 1-2 of 3)

3. The Appellant met his spend-down and was a full coverage Medicaid beneficiary, scope/coverage code 2F, for the month of [REDACTED]. (Exhibit 1, page 6; ASW Testimony)
4. The Appellant received HHS for the month of [REDACTED] with a total monthly care cost of \$ [REDACTED]. (Exhibit 1, pages 13 and 16)
5. The Appellant's Medicaid spend-down exceeds the total monthly care cost of HHS he is potentially eligible for.
6. On [REDACTED], the Department sent the Appellant an Advance Negative Action Notice which informed him that the HHS case would be terminated effective [REDACTED] because he had not met his spend-down for over [REDACTED] months, since [REDACTED]. (Exhibit 1, pages 8-11)
7. On [REDACTED], the Appellant's Request for Hearing was received by the Michigan Administrative hearing System. (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 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 Adult Services Manual (ASM) addresses eligibility for Home Help Services:

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 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.

Adult Services Manual (ASM) 105, 11-1-2011 pages 1-2 of 3

The Appellant's needs for assistance at home were not contested in this case. Rather, the Appellant's HHS case was terminated because he had not met his Medicaid spend-down for over 7 months, since ██████████. (Exhibit 1, pages 8-11)

Department policy requires a HHS participant to have full coverage Medicaid or have met the monthly Medicaid spend-down, in order to be eligible for the HHS program. The Appellant met his spend-down and was a full coverage Medicaid beneficiary, scope/coverage code 2F, for the month of ██████████. (Exhibit 1, page 6; ASW Testimony) The Appellant received HHS for the month of ██████████ with a total monthly care cost of \$██████████. (Exhibit 1, pages 13 and 16) The Appellant has not met his Medicaid spend-down since ██████████. The Appellant's Medicaid spend-down exceeds the total monthly care cost of HHS he is potentially eligible for. Accordingly, he has not been eligible for HHS since ██████████. The ASW testified she spoke with the Appellant about having to meet his spend-down to qualify for Medicaid and HHS during two separate home visits. (ASW Testimony)

The Appellant's testimony focused on his impairments and needs for assistance, which are not at issue. (Appellant Testimony) Rather, the Department determined he is potentially eligible for HHS for assistance with a total monthly care cost of \$██████████. (Exhibit 1, page 13) The Appellant's son indicated that whether or not he is paid, he cares for the Appellant and services are very much needed. (Son Testimony)

The Department's documentation establishes that the Appellant has not met his spend down since [REDACTED]. (Exhibit 1, page 6) Further, the monthly spend-down, ranging from \$ [REDACTED] to \$ [REDACTED], has exceeded the monthly HHS care cost the Appellant is potential eligible for, \$ [REDACTED]. (Exhibit 1, page 14) Therefore, the Appellant has not been eligible to receive HHS and a termination of his HHS case was appropriate.

The Appellant can always re-apply for HHS if he meets his Medicaid spend-down or has a change in Medicaid eligibility status.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated the Appellant's HHS case.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

ls _____

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 1/29/2013

***** 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.