

**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. 2013-14629 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 on ██████████. The Appellant was represented by ██████████, choreprovider ██████████, Appeals Review Officer, represented the Department. ██████████, ASW and ██████████, ASW supervisor.

ISSUE

Did the Department properly suspend Home Help Services (HHS) for 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 ██████████ year-old Medicaid-SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant alleges disability by way of chronic osteoarthritis, tibia fracture, seizure disorder, depression, bronchitis, insomnia and HTN. (Department's Exhibit A, pp. 13, 14 and 16)
3. The Appellant's representative stated proof of DHS 54A medical needs certification was left "at the office." See Testimony.
4. The Department representative said that the Appellant's HHS was suspended for failure to provide a certified copy o the DHS 54A medical needs form 0 in this instance lacking the date. (See Testimony of Numley)
5. On ██████████ the ASW ██████████ [not present for hearing] sent the Appellant a DHS 1212 Advance Negative Action Notice advising her that her

HHS benefits would be suspended on [REDACTED]. (Department's Exhibit A, pp. 2, 6)

6. Benefit payments were next reinstated effective [REDACTED] owing to the Appellant's brief hospitalization of [REDACTED] through [REDACTED]. (Department's Exhibit A, pp. 2, and 13)
7. The Department's certification date for the start of HHS benefits and payments was [REDACTED]. There was no documentary evidence in the record suggesting incomplete certification – such as a DHS 54A medical needs form. (Department's Exhibit A. p. 14)
8. The request for hearing on the instant appeal was received by the Michigan Administrative Hearings System (MAHS) for the Department of Community Health on [REDACTED]. (Appellant's Exhibit #1)

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.

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 Service Requirements.

ASM §105, page 2 of 3, November 1, 2011

ADULT SERVICES REQUIREMENTS - 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.

....

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 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.

If the medical needs form has not been returned, the adult services specialist should follow-up with the client and/or medical professional.

Do **not** authorize home help services prior to the date of the medical professional signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is before the date on the DHS-390, payment for home help services must begin on the date of the application.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary. (Emphasis supplied by ALJ) ASM 115, pages 1 and 2 of 3, *Supra*

The Department's witness, who did not have first hand knowledge of the transaction, stated that based on her review of the records the Appellant's DHS 54A medical needs form was observed to be defective [lack of date] at the [REDACTED] home visit by a different adult service worker. The Department's exhibit clearly shows in the ASW notes recorded on [REDACTED] that "...payments are effective [REDACTED] (medical certification date)." See Department's Exhibit A, at page 14

A later suspension of HHS benefits stemmed from a brief hospitalization for the Appellant in [REDACTED] – when home help benefits are unauthorized. They were resumed without issue on [REDACTED].¹

The Appellant's representative testified that the "documents" [DHS 54A medical needs form] were properly submitted in [REDACTED] along with the other application materials and that the delay interposed by the Department of Human Services left the Appellant with no remedy for establishing a correct start date.

On review, the evidence preponderates in favor of the Appellant, [in part] as supplied in the Department's record. The [REDACTED] action was a brief suspension for [REDACTED] days of hospitalization. Benefits were reinstated on [REDACTED].

The ASW documented that the case was certified by a medical professional on [REDACTED].

Obviously, since the application was timely received the start date [in this case] is effective upon proper certification of the DHS 54A medical needs form by a medical professional – in this case [REDACTED]. Benefits cannot issue prior to signature and dating by the medical professional.

The Department's [REDACTED] suspension of HHS was improper. If the Department had an improperly executed or an incomplete DHS 54A medical needs form from [REDACTED] [or any other time period] it would have been a simple matter of producing it for hearing - as they are party in control of these documents. They did not produce any medical needs form for consideration as evidence.

¹ There was no reference in the Department's exhibit that the DHS 54A medical needs form was somehow inadequate for the events occurring in [REDACTED]. The Appellant was briefly hospitalized; benefits were properly suspended [because it is presumed that the ADLS/IADLS are supplied by the hospital] for two days and then were reinstated on [REDACTED]. See Department's Ex. A, at page 9

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly suspended HHS on [REDACTED] [effective [REDACTED]] for lack of a completed DHS 54A medical needs form.

The Department properly established the certification date for the commencement of HHS payment as [REDACTED].

IT IS THEREFORE ORDERED that:

The Department's decision is VACATED, in part, and AFFIRMED, in part.

IT IS FURTHER ORDERED that:

The Department's action in suspending HHS in [REDACTED] for lack of a completed DHS 54A medical needs form is VACATED. The Appellant's HHS was properly suspended for the time period of her hospitalization; [REDACTED] through [REDACTED], [REDACTED]. Benefits were properly reinstated on [REDACTED]. The Department's action to that end is AFFIRMED.

The Department's action in establishing the date for commencement of payment of HHS as [REDACTED] is AFFIRMED.

 /s\
Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 3/4/2013

***** 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.