**STATE OF MICHIGAN**
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**
**FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

**IN THE MATTER OF**:

Docket No. 2013-17097 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 appeared on her own behalf. Her witnesses were , Care Provider and  Service Coordinator. , Appeals Review Officer, represented the Department of Community Health. (Department of Respondent).  Adult Services Supervisor and , Adult Services Worker (ASW) appeared as witnesses for the Department.

## ISSUE

Did the Department properly terminate 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. Appellant is a  year-old Medicaid beneficiary who has been diagnosed with primary biltery cirosis, chronic obstructive pulmonary disease (COPD), neuropathy, diabetes, hypertension, nephortic syndrome, and pulmonary fibrosis. (Exhibit A, p 7).

2. On  ASW  met with Appellant for a reassessment. Appellant's provider was not available on that date, but ASW - informed Appellant that the provider could call her to set up an appointment to complete the assessment. (Exhibit A, p 12; Testimony).

3. When ASW  did not hear from Appellant or her provider, she issued a Negative Action Notice on  informing Appellant that her HHS case would be closed on  if Appellant's provider did not meet with the ASW prior to that time. (Exhibit A, p 12; Testimony).

4. At the end of [redacted], Appellant's former care provider left and Appellant found a new care provider. (Testimony).

5. After receiving the Negative Action Notice, Appellant and her new care provider went to ASW Butler-Jackson's office on or around [redacted]. ASW [redacted] informed Appellant and her provider that they would need to make an appointment. An appointment was scheduled for [redacted]. (Testimony).

6. On [redacted], Appellant and her provider met with ASW [redacted], but Appellant's provider did not have her social security card with her as she had misplaced it. Appellant's provider had a copy of a print out from the social security administration showing her social security number, which she had obtained when applying for a replacement social security card. ASW [redacted] informed Appellant's provider that the document was not acceptable. Appellant's provider informed ASW [redacted] that she was a provider on another case and inquired as to whether a copy of her social security card from that file would suffice. ASW [redacted] indicated that a copy of her social security card from another case would be sufficient, but ASW [redacted] indicated that she never received a copy of that card from the other DHS worker. (Testimony).

7. On [redacted], the Michigan Administrative Hearing System received a Request for Hearing from Appellant. (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 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.

Adult Services Manual 135 addresses the issue of documentation required of Home Help Providers:

> 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*
*Page 18-19*

With respect to Reviews, Adult Services Manual 155 (11-1-2011) (hereinafter "ASM 155") states:

**REVIEWS**

ILS cases must be reviewed every six months. A face-to-face contact is required with the client, in the home. If applicable, the interview must also include the caregiver.

**Six Month Review**

Requirements

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.

- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.

- Follow-up collateral contacts with significant others to assess their role in the case plan.

- Review of client satisfaction with the delivery of planned services.

Documentation

Case documentation for all reviews should include:

- Update the "**Disposition**" module in ASCAP.

- Generate the CIMS Services Transaction (DHS-5S) from **forms** in **ASCAP**.

- Review of **all** ASCAP modules **and** update information as needed.

- Enter a brief statement of the nature of the contact and who was present in **Contact Details** module of ASCAP.

- Record expanded details of the contact in **General Narrative**, by clicking on **Add to & Go To Narrative** button in **Contacts** module.

- Record summary of progress in service plan by clicking on **Insert New Progress Statement in General Narrative** button, found in any of the **Service Plan** tabs.

**Annual Redetermination**

Procedures and case documentation for the annual review are the same as the six month review, with the following additions:

- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.

- A new medical needs (DHS-54A) certification, if home help services are being paid.

  **Note**: The medical needs form for SSI recipients will **only** be required at the initial opening and is no longer required in the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and then annually thereafter.

- A face-to-face meeting with the care provider, if applicable. This meeting may take place in the office, if appropriate.

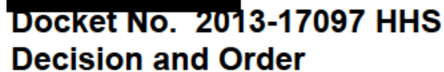
The Department's ASW testified that on [redacted], she met with Appellant for a reassessment. Appellant's provider was not available on that date, but the ASW informed Appellant that the provider could call her to set up an appointment to complete the assessment. When the ASW did not hear from Appellant or her provider, she issued a Negative Action Notice on [redacted] informing Appellant that her HHS case would be closed on [redacted] if Appellant's provider did not meet with her prior to that date. The Department's ASW testified that she had a meeting with Appellant and her new provider on [redacted], but that Appellant's new provider did not have her social security card with her as she had misplaced it. The ASW testified that she could not approve Appellant for HHS if her provider did not have the necessary picture identification and social security card.

Appellant testified that she informed her ASW prior to the [redacted] meeting that her provider would not be available because she had [redacted], but that the ASW insisted the meeting go ahead. Appellant testified that her provider then tried to call the ASW all through [redacted] but could not reach her because her voice mail was always full. Appellant testified that after receiving the Negative Action Notice, Appellant and her new provider went to the ASW's office on or around [redacted] but that the ASW informed them that they would need to make an appointment. On [redacted], Appellant and her provider met with the ASW, but Appellant's provider did not have her social security card with her as she had misplaced it. Appellant's provider had a copy of a print out from the social security administration showing her social security number, which she had obtained when applying for a replacement social security card. The ASW informed Appellant's provider that the document was not acceptable. Appellant's provider informed the ASW that she was a provider on another case and inquired as to whether a copy of her social security card from that file would suffice. The ASW indicated that a copy of her social security card from another case would be sufficient.

Appellant's home help provider testified that she asked the other DHS worker to provide Appellant's ASW with a copy of her social security card and that the DHS worker indicated that she had done so two times.

The ASW testified that she never received a copy of the provider's social security card from the other DHS worker.

Based on the evidence presented, the Department properly closed Appellant's case for her provider's failure to provide needed documentation. While Appellant's provider did endeavor to provide this information to the ASW, she never ensured that the information was provided. Appellant's provider could have obtained a copy of her social security card from the other DHS worker herself and delivered that copy to Appellant's ASW, instead of calling the other DHS worker and relying on her to make the delivery. Appellant can always reapply for home help services.




**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED** THAT:

The Department's decision is **AFFIRMED**.

/s/
Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

***** 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.