

**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. 2013-19179 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, an in person hearing was held on ██████████. The Appellant, [actually ██████████], was represented by her son ██████████, mistakenly identified as the Appellant herein. He had no witnesses. ██████████, R.N., Appeals Review Officer, represented the Department. Her witnesses were ██████████, ASW and ██████████, ASW supervisor.

PRELIMINARY MATTER

The admission of Appellant's Exhibit #3 [DHS 54A medical needs form, medical prescription and live-in care attendant verification form] was taken under advisement at hearing on a relevance objection from the Department. On review, the exhibit is not admitted as it appears to pertain to the Appellant's representative – not the Appellant.

ISSUE

Did the Department properly deny the Appellant's Home Help Services (HHS)?

FINDINGS OF FACT

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

1. At the time of hearing the Appellant is a disabled, ██████-year-old, [spend down] Medicaid beneficiary.
2. The Appellant is "elderly and needs 24-hour care" according to her representative.

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3. At hearing he proves by received documentation that he is the Appellant's representative of ██████████, in her quest to obtain HHS services. (See Testimony and Appellant's Exhibit #2)
4. Her authorization and consent to his representation was provided by certified letter drafted ██████████ and received by the Department on ██████████. ¹ (Appellant's Exhibit #2)
5. On ██████████, the ASW (██████████) sent the Appellant a DHS-1212-A Adequate Negative Action notice informing her that her application for HHS would be denied for lack of receipt of a DHS 54A medical needs form which was due on ██████████. (Department's Exhibit A, pp. 2 and 5)
6. The Appellant's representative said that he mailed the DHS 54A medical needs form, on ██████████, to ██████████ an Eligibility worker with the Department of Human Services – instead of ██████████, the ASW. (See Testimony)
7. The effective date of denial was ██████████. (Department's Exhibit A, pp. 2, 5 and 7)
8. The Appellant's further appeal rights were contained in that notice.
9. The ASW further advised the Appellant's representative that the Appellant, according to the Bridges Eligibility System, is a spend down Medicaid beneficiary who has not met her spend down since ██████████. (See Testimony and Department's Exhibit A, pp. 2 and 6)
10. The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on ██████████ – it was assigned for hearing on ██████████. (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 certified² by a medical professional.

¹ The Department's hearing summary, accordingly, failed to reflect the amended request for hearing authorized by the Appellant - ██████████.

² ASM 105, Medical Need Certification, pp. 2 of 3

COMPREHENSIVE ASSESSMENT

The DHS-324, Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on all open independent living services cases. ASCAP, the automated workload management system, provides the format for the comprehensive assessment and all information must be entered on the computer program.

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the client in his/her place of residence.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as necessary, but minimally at the six month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.

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Adult Service Manual (ASM), §120, page 1 of 5, 5-1-2012.

The Department witness testified that she denied the Appellant's HHS based on the lack of receipt of the Appellant's required DHS 54A medical needs form.

The ASW testified that there was no in-home assessment because threshold documents were never completed or received by the Department. She explained further [and her supervisor verified], that the Appellant's action of sending massive mailings to

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his mother's or his - eligibility worker – did not equate to service or receipt of required documents by ASW ██████████ or the Home Help Services program.

The Appellant said his mother needs help and that given the amount of help required - he is unable to provide that assistance.

It is the province of the ASW to determine eligibility for services; the ASM requires an in-home, comprehensive assessment of HHS recipients. But, before that happens – the Appellant must be eligible for Medicaid, complete an application and provide a completed/certified medical needs form – none of this has happened.

Although well intentioned - it does not appear that the Appellant's representative has the capacity to advocate for his mother in the myriad of services [beyond HHS] he pursues on her behalf.

On review of the testimony and the evidence the Administrative Law Judge finds that the Department properly denied the Appellant HHS services for lack of providing the required threshold application materials. The ALJ further notes that the testimony at hearing today proved there was no way for the ASW to independently follow up the Appellant's application on her own initiative.

The Appellant has not preponderated her burden of proof to demonstrate her eligibility for HHS services.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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

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

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cc:

Date Signed: 6/17/2013

Date Mailed: 6/17/2013

***** 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.