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:

[redacted]

Docket No. 2013-31779 HHS
Case No. [redacted]

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.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. Appellant appeared on his own behalf. [redacted], Case Manager, [redacted], appeared as a witness for Appellant. [redacted], Appeals Review Officer, represented the Department. [redacted], Adult Services Specialist appeared as a witness for the Department.

ISSUE

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

FINDINGS OF FACT

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

1. On [redacted], the Department's Adult Services Specialist conducted an initial assessment of Appellant for HHS. (Exhibit A, p 11)

2. Upon assessment, the Adult Services Specialist noted that, as of [redacted], Appellant had Medicaid with a monthly deductible, or spend-down, of $[redacted] per month. (Exhibit A, p 9) The Adult Services Specialist determined that Appellant's home help payment would only be $[redacted] per month. (Exhibit A, p 14)

3. 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)

4. The Department's Adult Services Specialist found no evidence that Appellant had met his spend-down. (Testimony)

5. On [redacted], the Department sent Appellant an Adequate Negative Action Notice informing him that an HHS case would not be opened because he had a monthly Medicaid spend-down, which he had not met. (Exhibit A, p 6)

6. On [redacted], the Appellant's Request for Hearing was received by the Michigan Administrative hearing System. (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 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 need for assistance at home was not contested in this case. Rather, the Appellant's HHS case was not opened because he had a Medicaid spend-down that he had not met.

Department policy requires an HHS participant to have full coverage Medicaid or have met the monthly Medicaid spend-down in order to be eligible for the HHS program. Here, the Adult Services Specialist testified that there was no evidence that Appellant had met his spend-down and that he is required to rely on the data provided to him to make decisions.

Appellant's witness testified that she had been submitting billings for the services Appellant was receiving at the time of his initial assessment to Appellant's Medicaid Eligibility Specialist, but that those billings would not have been enough to meet Appellant's spend-down. However, Appellant's witness indicated that Appellant has recently been enrolled in the Wellness Program, which will result in billings adequate to meet his spend-down each month. Appellant and his witness were advised that they would need to get that information to Appellant's Medicaid Eligibility Specialist and then reapply for HHS once his spend-down is met.

The Department's documentation establishes that the Appellant had an unmet Medicaid spend-down at the time of his initial assessment. Therefore, Appellant was not eligible to receive HHS and a denial of his HHS application was appropriate.

As indicated above, Appellant can always re-apply for HHS once 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 denied the Appellant's HHS application.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

cc: [redacted]

Date Mailed: 4/17/2013

***** 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.