

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2013-9047 HHS

Case No. [REDACTED]

[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]. The Appellant appeared without representation. His witness was [REDACTED]. [REDACTED], Appeals Review Officer, represented the Department. His witnesses were [REDACTED], ASW and [REDACTED], ASW supervisor.

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. The Appellant is a [REDACTED]-year-old Medicaid-SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant is afflicted with low vision and other unknown maladies. (See Testimony and Department's Exhibit A, page 6)
3. The Department witnesses said that the Appellant's HHS was denied when the Appellant failed to return a properly executed DHS 54A medical needs form and his DHS 390 application by the due date of [REDACTED]. (See Testimony and Department's Exhibit A – pages 2, 4-7)
4. On [REDACTED] the Department sent the Appellant an Adequate Negative Action Notice DHS 1212A informing him that HHS would be denied for failure to submit required application materials by the due date. (Department's Exhibit A, pp. 7 and 9)
5. The Appellant had a previous HHS case which closed "a year ago." (See Testimony of [REDACTED])

6. The request for hearing on the instant appeal was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health 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 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. Completed DHS-54A or veterans administration medical forms are acceptable for individual treated by a VA physician; see ASM 115, Adult Service Requirements.

ASM §105, page 2 of 3, 11-1- 2011

APPLICATION FOR SERVICES

The client must complete and sign a DHS 390, Adult Services Application to receive independent living services. An authorized representative or other person acting for the client may sign the DHS 390 if the client either:

- Is incapacitated.
- Has a court-appointed guardian.

A client unable to write may sign with an X, witnessed by one other person (for example, relative or department staff). The adult services specialist **must not** sign the DHS-390 on behalf of the client.

The DHS-390 remains valid unless the case record is closed for more than 90 days.

**(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

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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 witness, ASW ██████████, testified that she denied HHS after the Appellant failed to timely return the required DHS 390 application and the required DHS 54A medical needs form. She said the documents were due on ██████████ and were later received with improper signatures and erroneous information. They were dated ██████████.

The Appellant testified that he wanted to know why he was "cut off" from the HHS program – historically the Appellant had an HHS case which closed approximately one year ago – according to the testimony of ASW supervisor, Leslie Turner. The Appellant's witness said the Appellant needs a lot of help because he "moves slow" – she added that she does a lot of the reading for the Appellant.

On review, the Appellant's witness admitted that she signed the DHS 54A medical needs form – even though she is not a listed medical professional. The questioned documents later received by the Department were clearly dated ██████████ - eight (8) days late. The Department's policy requires certification of need for assistance by a medical professional – there was no such certification and his application materials were late.

DECISION AND ORDER

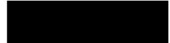
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's HHS effective ██████████.

IT IS THEREFORE ORDERED that:

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

/s/

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


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cc:



Date Mailed: 1/15/2013

***** 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.