

**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:

██████████

Docket No. 2013-15948 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant, appeared on his own behalf but did not testify. Appellant's ██████████ appeared as a witness. ██████████ appeared as an interpreter. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), 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 or about ██████████, the Appellant applied for the HHS program. (Exhibit A, p 6) The Appellant is ██████ years old and is diagnosed with Alzheimer's disease. (Testimony).
2. The Appellant's ██████ also applied for HHS. (Exhibit A, p 6; Testimony).
3. On ██████████, the Appellant's doctor completed a DHS-54A Medical Needs form indicating that Appellant needed assistance with toileting, bathing grooming, taking medications, meal preparation, shopping, laundry, and housework. (Exhibit 2).

██████████
Docket No. 2013-15948 HHS
Decision and Order

4. On ██████████, the Department's ASW made a home visit to conduct an initial assessment. The ASW discovered that Appellant lived with an able and available relative, his ██████ who is █████ years old and is diagnosed with hypertension and arthritis. The ASW concluded that Appellant's █████ could help him bathe, help him get in and out of the tub, and help him get dressed. (Exhibit A, p 10; Testimony).
5. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. (Adult Services Manual (ASM) 120, 11-1-2011, Pages 4-5 of 6).
6. On ██████████, the Department sent an Adequate Negative Action Notice to the Appellant indicating that his HHS application was denied because he is married and it was determined that there is no medical need why his spouse is not able to provide care for him. (Exhibit A, p 4).
7. On or about ██████████, 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.

Adult Services Manual (ASM) 120, 11-1-2011, addresses responsible relatives:

Responsible Relatives

Activities of Daily Living may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented/verified by a medical professional on the DHS-54A, Medical Needs form.

**Docket No. 2013-15948 HHS
Decision and Order**

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Example: [REDACTED] is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The specialist would not approve hours for shopping, laundry or house cleaning as [REDACTED] is responsible for these tasks.

Example: [REDACTED] is in need of home help services. Her spouse's employment takes him out of town Monday thru Saturday. The specialist may approve hours for shopping, laundry or house cleaning.

*Adult Services Manual (ASM) 120, 11-1-2011,
Pages 4-5 of 6*


The Department's ASW testified that she conducted an initial assessment with Appellant on [REDACTED] and quickly discovered that Appellant lived with an able and available relative, his [REDACTED] who is [REDACTED] years old and is diagnosed with hypertension and arthritis. The ASW concluded that Appellant's [REDACTED] could help him bathe, help him get in and out of the tub, help him get dressed, and generally take care of his needs.

Appellant's [REDACTED] testified that her [REDACTED] cannot help Appellant because he does not understand what is going on because of his Alzheimer's disease. Appellant's [REDACTED] also testified that her [REDACTED] is overweight, has her own medical problems, and cannot take care of Appellant everyday. Appellant's [REDACTED] did indicate that her [REDACTED] can care for her [REDACTED] once in a while.

The ASW properly considered the availability and ability of the Appellant's [REDACTED] to provide care for the Appellant. The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an [REDACTED] under age [REDACTED]. Adult Services Glossary (ASG Glossary) 12-1-2007, Page 5 of 6. The Appellant's [REDACTED] meets the definition of a responsible relative. Under Department policy, HHS for the Appellant could only be authorized for those services or times that the responsible relative is unavailable or unable to provide. Here, the [REDACTED] is able to care for [REDACTED] and the Appellant. There was no evidence that the Appellant's [REDACTED] was unavailable to provide care for the Appellant. The Appellant's HHS application was properly denied based on the information available to the ASW at that time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied the Appellant's HHS application based on the information available at that time.


Docket No. 2013-15948 HHS
Decision and Order

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:



Date Mailed: February 7, 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.