

**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. 2013-32581 HHS

██████████

██████████

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 ██████████ ██████████ the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), and ██████████ Adult Services Supervisor, appeared as witnesses 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 Department received a referral for the Appellant for the HHS program. (Exhibit 1, page 5)
2. On ██████████, the Department received the Appellant's application for the HHS program. (ASW Testimony)
3. The Appellant has been diagnosed with fibromyalgia, degenerative disc disease L4-L5, and scoliosis. (Exhibit 1, page 4a)
4. On ██████████, the Appellant's doctor completed a DHS 54-A Medical Needs form. The doctor did not certify that the Appellant had a medical need for assistance with personal care activities. The doctor also indicated the Appellant could work, but may need to get up and walk around every 1-2 hours and cannot sit for prolonged periods of time. (Exhibit 1, page 4a)

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5. Based on the available information the ASW concluded that the Appellant did not qualify for HHS. (Exhibit 1, page 5)
6. On [REDACTED], the ASW sent the Appellant an Adequate Action Notice which informed her that the HHS application was denied because she was not certified for services with any personal care activities. (Exhibit 1, pages 6-9)
7. On [REDACTED] the Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit 1, page 4)

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) 101, 11-1-11, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

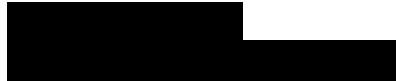
Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

*Adult Services Manual (ASM) 101,
11-1-2011, Page 1of 4.*

Adult Services Manual (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

Requirements

Home help eligibility requirements include all of the following:



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- 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.

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. A completed DHS-54A or veterans administration medical forms are acceptable for individual treated by a VA physician; see ASM 115, Adult Services Requirements.

*Adult Services Manual (ASM) 105,
11-1-2011, Pages 1-2 of 3*

Adult Services Manual (ASM) 115, 11-1-11, addresses the DHS-54A Medical Needs form:

MEDICAL NEEDS 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.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All

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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 medical professional and not the client must complete the form. 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.

*Adult Services Manual (ASM) 115,
11-1-2011, Pages 1-2 of 3*

In order to authorize Home Help Services, the Adult Services Manual requires verification of the medical need for assistance by a Medicaid enrolled medical professional. On [REDACTED], the Appellant's doctor completed a DHS 54-A Medical Needs form. The doctor listed a diagnosis of fibromyalgia, degenerative disc disease L4-L5, and scoliosis. However, the doctor did not certify that the Appellant had a medical need for assistance with personal care activities. The doctor also indicated the Appellant could work but may need to get up and walk around every 1-2 hours and cannot sit for prolonged periods of time. (Exhibit 1, page 4a) Based on the available information the ASW concluded that the Appellant did not qualify for HHS. (Exhibit 1, page 5)

The Appellant disagrees with the termination. The Appellant testified she is on a slew of medications, which make her drowsy and dizzy. The Appellant is in pain all the time, including while sitting during the hearing proceedings. Nobody knows the Appellant's pain but her. The Appellant asked her doctor about what was marked on the medical verification form and the doctor indicated she was afraid to be sued. (Appellant Testimony)

In this case, the policy is clear. Verification is required from a Medicaid enrolled medical professional certifying the client's medical need for services. The doctor did not certify that the Appellant had a medical need for assistance on the [REDACTED] DHS-54A Medical Needs form. (Exhibit 1, page 4a) The Department properly denied the Appellant's Home Help Services application based on the information available at that time.

If she has not already done so, the Appellant may wish to reapply for the HHS program and provide updated verification of a medical need for assistance with personal care activities.

[REDACTED]

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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.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

/s/

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

***** 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.