

**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. 2013-40918 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ ██████████ Assessment Coordinator, ██████████ appeared and testified on behalf of the Appellant. Appellant also testified on her own behalf. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Worker (ASW) testified on behalf of the Department. ██████████ Adult Services Supervisor was also present but did not testify.

**ISSUE**

Did the Department properly deny Appellant's request for 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. Appellant is a ██████-year-old Medicaid beneficiary (██████████) who has been diagnosed with PVD, Type 2 Diabetes, Osteoarthritis, ulcers on her legs, and high blood pressure. (Exhibit A, p. 14 and testimony).
2. On ██████████ Appellant applied for HHS. On or about ██████████ Department of Human Services (DHS) received a DHS-54A certifying Appellant's medical needs. (Exhibit A, pp. 12, 18).
3. On ██████████, ASW Moore did a home visit to conduct a routine assessment of Appellant's eligibility for HHS. Based on the comprehensive assessment, ASW Moore determined that the Appellant lives with her spouse and failed to provide DHS with information concerning any disabilities he might have, along with a Medical Needs Form. (Exhibit A, pp. 12, 15, 17-18; and testimony).

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4. On [REDACTED], the Department sent a written notice notifying Appellant that her request for HHS was being denied effective [REDACTED] because a responsible relative, her spouse, had not provided DHS with any proof that he was unable or unavailable to assist Appellant with her daily tasks. (Exhibit A, pp. 8-11).
5. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Exhibit A, pp. 4-7).

**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 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 Manuals used by the Department outline the applicable policy in this case and, in a number of places, they explicitly address a caseworker's prohibition from authorizing home health services if there is an available responsible relative able to assist with personal services.

For example, Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") expressly provides:

**Services not Covered by Home Help Services**

Home Help Services must **not** be approved for the following:

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- Services for which a responsible relative is **able and available** to provide (such as house cleaning, laundry or shopping). [ASM 101, page 3 of 4.]

In the pertinent part, Adult Services Manual 135 (11-1-2011) (hereinafter "ASM 135") also provides:

**PROVIDER SELECTION**

The client has the right to choose the Home Help Provider(s). As the employer of the provider, the client has

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the right to hire and fire providers to meet individual personal care service needs. Home Help Services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the Adult Services Specialist.

Home Help Services **cannot** be paid to:

- A spouse caring for a spouse or a parent caring for an unmarried child under 18 (responsible relative).

**Note:** Couples who are separated must provide verification that they are no longer residing in the same home (unavailable). Verification may include their driver's license, rent receipt or utility bill reflecting their separate mailing address. A spouse who is legally separated from a spouse cannot be paid to provide home help. [ASM 135, page 1 of 7.]

Similarly, Adult Services Manual 120 (11-1-2011) (hereinafter "ASM 120") provides:

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.

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. [ASM 120, pages 4-5 of 5, emphasis added].

In light of the above policy, the Department properly considered the availability and ability of the Appellant's husband to provide care for Appellant. As discussed above,

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services which a responsible relative is able and available to provide are not covered by HHS and the Department cannot authorize payments for such services.

The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Adult Services Glossary (12-1-07), page 5 of 6. It is undisputed that Appellant is legally married to his wife in this case and, accordingly, she is a responsible relative.

Given that Appellant's husband is a responsible relative the Department can only authorize payments for HHS if the husband was unavailable or unable to provide the services for Appellant. As defined in the ASM 120, "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." "Unavailable" means "absence from the home, for employment or other legitimate reasons."

ASW [REDACTED] testified she did a home visit with Appellant and her provider on [REDACTED]. The ASW stated the provider represented himself as an individual provider, but it now turns out he works for an agency. The ASW explained the program to the Appellant and what would be the tasks. The ASW stated the Appellant told the ASW that her husband lived with her. The ASW asked if the Appellant's husband was able to take care of her and the Appellant said no. The ASW stated she then explained to the Appellant her husband was considered a responsible relative and they would have to present proof that he was unable or unavailable to provide care or the case would be denied. The ASW stated the Appellant said she would provide her with what was needed and the ASW then sent a medical needs form to the Appellant's home for her husband to get filled out and have returned. The ASW stated she waited a couple of months, but never received anything from the Appellant or her husband. The ASW stated that Appellant's case was never opened and an Adequate Action Notice was sent out to Appellant indicating her request for HHS was denied.

Here, the only dispute is whether Appellant's husband is able to provide the necessary assistance to Appellant. However, the Appellant's spouse failed to provide DHS with information concerning any disabilities he might have, along with the necessary Medical Needs Form. The relevant policies are clear on this issue and the Department did not receive any documentation that the Appellant's husband was disabled or otherwise unavailable to assist the Appellant.

At the hearing, Appellant's representative [REDACTED] testified he was the Assessment Coordinator for [REDACTED] the Agency for the Appellant's proposed provider. He stated the provider was confused as to whether he was an individual or an agency provider. He also stated the provider was providing services for the Appellant's husband. [REDACTED] acknowledged he was not present for the home visit by the ASW and had no personal knowledge as to what occurred at the home visit.

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Appellant did testify she was married to a [REDACTED] and advised the ASW of this fact. Appellant indicated the letter she received only indicated her and the provider were supposed to be present for the home visit. Appellant said the ASW never sent her papers for her husband to send back. Appellant stated she never contacted the ASW to tell her that she didn't receive the papers for her husband. She indicated every time she called she got the ASW's voice mail and she just hung up. She later testified when she did leave a message the ASW did not call her back. The ASW responded that the Appellant never left her any messages on her voice mail. The ASW further indicated the Appellant could reapply and submit the needed documentation showing her husband was unable to care for her and then a case for HHS could be opened.

Appellant's husband is considered to be a responsible relative who is both able and available to provide Home Help Services to Appellant, having failed to provide the necessary documentation showing otherwise. Therefore, the Department cannot authorize payments for such services and its decision must be affirmed.

According to policy, with a responsible relative who has not been shown to be unable or unavailable DHS cannot authorize HHS for the Appellant.

**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 request for Home Help Services.

**IT IS THEREFORE ORDERED THAT:**

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

*William D Bond*

William D. Bond  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

  
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WDB/db

cc:



**\*\*\* 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.