

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. 2013-43879 HHS
Case No. ██████████

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 without representation. He had no witnesses. ██████████, R.N., Appeals Review Officer, represented the Department. Her witnesses were ██████████, ASW and ██████████, ASW supervisor.

ISSUE

Did the Department properly deny the 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. The Appellant is a ██████-year old Medicaid-SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant is afflicted with cervicalgia[sic], lumbago, DM, arthritis in his knees and depression.
3. The Appellant testified that his spouse is available, but not able to care for him by means of hands on care in the home owing to her own medical condition. (See Testimony Department's Exhibit A at pp. 5 and 6)
4. There was conflicting medical information regarding the spouse and her "ability." (Department's Exhibit A, pp. 5 and 6)
5. The Department denied HHS benefits for the Appellant because, irrespective of his spouse, there were other able bodied [responsible

relatives] adults living in the home who were providing hands on care for the Appellant. (See Testimony and Department's Exhibit A, p. 15)

6. The Appellant was notified of the negative action by DHS 1212A Adequate Negative Action Notice denying HHS on ██████████. His further appeal rights were contained therein. (Department's Exhibit A, pp. 2 and 10)
7. The instant request for hearing 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.

Services not Covered by Home Help

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able and available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive.

Adult Service Manual (ASM) 101, 11-1-2011, pp. 3 and 4

The Adult Services Manual [120] has additional policy requirements below:

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.

(ASM 120, 11-1-2011, pp. 1-5 of 6)

A responsible relative is a person's spouse – (Emphasis supplied) Glossary ASG, 12-1-2007, at page 5 of 6.

The Department's witness testified she observed that the Appellant's spouse was present during the in-home assessment along with other adults – such as his adult sister and adult children ages 18, 19, 20 and 23 – all who live with the Appellant as well.

The Appellant explained that his wife's doctor did not know he was disabled. Yet, the spouse's medical needs form submitting physician [who failed to certify the spouse of the Appellant] *did* know that he was disabled – or at least checked the box at section L on the DHS 54A dated ██████████.

The Appellant testified that his adult children do help him with hands on care.

Docket No. 2013-43879 HHS
Hearing Decision & Order

The Department's witness, [ASW Bazile] said that the spouse was not disabled – but that there were many other responsible adults in the home who could provide assistance to the Appellant.

On review, the Adult Service Manual clearly prohibits assignment of HHS to an individual when there are others able and available to perform those duties while living in the home.

If there has been a significant change in medical condition for the spouse of the Appellant that did not present itself in preparation of the DHS 54A medical needs form – then this development should be presented to the ASW for possible reassessment. Otherwise the evidence today preponderates that the spouse of the Appellant was able and available to provide hands on assistance to her husband – along with other responsible relatives.

The Appellant failed to preponderate his burden of proof.

The Department properly denied HHS.

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 benefits.

IT IS THEREFORE ORDERED that:

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

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

cc:

Date Signed: 8/1/2013

Date Mailed: 8/1/2013

Docket No. 2013-43879 HHS
Hearing Decision & Order

***** 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.