

**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. 2013-44582 HHS

██████████

██████████

██████████

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 begun on ██████████ during which the Appellant authorized her daughter to be her Authorized Hearing Representative. The hearing was then adjourned and completed on ██████████ ██████████ daughter, represented the Appellant. ██████████, 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 reduce the Appellant's Home Help Services ("HHS") authorization?

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 Medicaid beneficiary who had been authorized for HHS since August 2008. (Exhibit 1, page 15)
2. The Appellant has been authorized for HHS with a potential total monthly care cost of ██████████. (Exhibit 1, page 13)
3. Department policy requires Medicaid eligibility in order to receive HHS, and clients with a monthly spend-down are not eligible until they have met their spend-down obligation. (Adult Services Manual (ASM) 105, ██████████, pages 1-2 of 3)

4. The Appellant has been utilizing the personal care option to meet her Medicaid deductible obligation since ██████████ (Exhibit 1, pages 14 and 16)
5. The Appellant had a Medicaid spend-down of ██████ from ██████████ through ██████████ (Exhibit 1, page 14)
6. As of ██████████, the Appellant's Medicaid spend-down was increased to ██████. (Exhibit 1, page 14)
7. On ██████████, the Department sent the Appellant an Advance Negative Action Notice which informed her that the HHS payment would be reduced to ██████ effective ██████████ because her Medicaid spend-down had increased. (Exhibit 1, pages 5-8)
8. On ██████████, the Appellant's Request for Hearing 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.

The Adult Services Manual (ASM) addresses eligibility for Home Help Services:

Requirements

Home help eligibility requirements include **all** of the following:

- 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.

Medicaid/Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in ASCAP for active services cases.

Medicaid Personal Care Option

Clients in need of home help personal care services may become eligible for MA under the Medicaid personal care option.

Discuss this option with the client and coordinate implementation with the eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is **more** than the MA excess income amount.

If **all** the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP.

Use the DHS-1210, Services Approval Notice to notify the client of home help services approval when MA eligibility is met through this option. The notice must inform the client that the home help payment will be affected by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option **cannot** continue if the cost of personal care becomes **equal to or less than** the MA excess income amount.

Note: See Bridges Eligibility Manual (BEM) 545, Exhibit II, regarding the Medicaid Personal Care Option.

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

The Appellant is a Medicaid beneficiary who had been authorized for HHS since ██████████ (Exhibit 1, page 15) The Appellant has been authorized for HHS with a potential total monthly care cost of ██████████. (Exhibit 1, page 13) The Appellant had a Medicaid spend-down of ██████████ from ██████████ through ██████████ (Exhibit 1, page 14) As of April 1, 2013, the Appellant's Medicaid spend-down was increased to ██████████. (Exhibit 1, page 14)

The Appellant has been utilizing the personal care option to meet her Medicaid deductible obligation since ██████████ (Exhibit 1, page 16) Department policy requires Medicaid eligibility in order to receive HHS, and clients with a monthly spend-down are not eligible until they have met their spend-down obligation. (Adult Services Manual (ASM) 105, ██████████ pages 1-2 of 3) Accordingly, on ██████████, the Department sent the Appellant an Advance Negative Action Notice which informed her that the HHS payment would be reduced to ██████████ effective ██████████ because her Medicaid spend-down had increased. The notice also explained that the personal care option requires the Medicaid spend-down to be deducted from the HHS payment and indicated that FICA taxes were also deducted. (Exhibit 1, pages 5-8)

The Appellant's daughter testified that the Appellant needs █████ hour care and cannot be left alone at home. The Appellant's daughter has to pay someone to help her assist the Appellant. The Appellant weighs almost █████ pounds and requires assistance with all activities including: getting up for the day, bathing, and changing. The Appellant has early dementia and is wheelchair bound; she would not be able to get out in case of a fire. However, the Appellant's daughter was not aware that the HHS program does not include █████ hour care, supervision, monitoring, etc. (See Adult Services Manual (ASM) 101, Services not Covered by Home Help, 11-1-2011, Pages 3-4 of 4)

The Appellant's needs for assistance at home were not contested in this case. Rather, the Appellant's HHS case was reduced because of the increase in her monthly Medicaid spend-down. The Appellant is potentially eligible for HHS with a total monthly care cost of █████. (Exhibit 1, page 13) As of █████ the Appellant's Medicaid spend-down was increased to █████. (Exhibit 1, page 14) The Appellant has been utilizing the personal care option to meet her Medicaid spend-down obligation. (Exhibit 1, pages 14 and 16) Accordingly, the Department properly reduced the Appellant's HHS payment in accordance with the increase to her monthly Medicaid spend-down obligation. The reduction to the Appellant's HHS payment must be upheld.

DECISION AND ORDER

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

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: ██████████

Date Mailed: ██████████

CL/db

cc: ██████████
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██████████
██████████

[REDACTED]
Docket No. 2013-44582 HHS
Decision and 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.