

**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. 2013-32383 HHS

Docket No. 2013-46518 REH¹

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

A hearing was held on ██████████. ██████████, Appellant's mother, appeared and testified on Appellant's behalf. Appellant also testified on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's application 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. In ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 16).
2. As part of the application process, Appellant submitted two letters, one from her doctor and one from her case manager at The ██████████. Those letters briefly discussed her medical conditions and the psychiatric services she has received. (Respondent's Exhibit A, pages 6-7).
3. She also submitted a DHS 54-A Medical Needs Form signed by her psychiatrist. However, that form did not identify any diagnoses that would prevent Appellant from performing her own personal care activities. (Respondent's Exhibit A, page 14; Testimony of ASW ██████████).

¹ This case was originally docketed as 2013-32383 HHS and dismissed due to Appellant's failure to appear at the hearing. That order of dismissal was later vacated and the matter set for rehearing. In doing so, the case mistakenly received a new docket number instead of the rehearing being based on the original docket number.

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4. On ██████████, ASW ██████████ conducted a home visit and assessment with Appellant and her proposed provider. (Respondent's Exhibit A, page 14; Testimony of ASW ██████████).
5. During that visit, ASW ██████████ noted the need for a medical needs form from Appellant's medical physician certifying a medical need for assistance. (Respondent's Exhibit A, page 14; Testimony of ASW ██████████).
6. On ██████████, the Department sent Appellant written notice that her application would be denied and her case closed on ██████████ unless a completed medical needs form was provided by that date. (Respondent's Exhibit A, page 5).
7. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing filed by Appellant regarding the denial. (Respondent's Exhibit A, pages 3-4).
8. MAHS assigned that appeal Docket No. 2013-32383 HHS.
9. No completed medical needs form was ever received and services were never authorized, but, due to the appeal being filed, Appellant's case was kept open. (Testimony of ASW ██████████).
10. After due notice, a hearing was scheduled for ██████████. The hearing was to be a telephone hearing, with Appellant and her representative appearing at the Wayne County DHS-District 45 office.
11. Appellant and her representative failed to appear for that hearing and, on ██████████, this Administrative Law Judge issued an Order of Dismissal with respect to Appellant's appeal.
12. Following that dismissal, Appellant's HHS case was closed. (Testimony of ASW ██████████).
13. On ██████████, MAHS received a request filed on behalf of Appellant. In that request, Appellant's representative noted that the notice of hearing had stated that it was a telephone hearing and that Appellant and her representative therefore believed they would be contacted at home. They also requested that the matter be rescheduled.
14. On ██████████, Supervising Administrative Law Judge ██████████ issued an Order Granting Request to Vacate Order of Dismissal.
15. On ██████████, MAHS rescheduled the hearing in this matter for ██████████ and a Notice of Rehearing was sent out to the parties. The rehearing was given a new docket number: 2013-46518 REH.

16. On ██████████, the rehearing was held.

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 105 (11-1-2011) (hereinafter "ASM 105") and Adult Services Manual 115 (11-1-2011) (hereinafter "ASM 115") address the requirements for a medical needs form in order for an applicant to receive HHS. For example, ASM 105 states in part, on pages 1-2 of 3, that:

GENERAL

Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened to supportive services to assist the client in applying for Medicaid.

Home help services payments cannot be authorized prior to establishing Medicaid eligibility and a face-to-face assessment completed with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

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.

* * *

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 form are acceptable for individual treated by a VA physician; see ASM 115, Adult Services Requirements.

Moreover, with respect to the required medical needs form, ASM 115, pages 1-2 of 3, also states:

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 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 form must be completed by the medical professional and not the the [sic] client. 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.

If the medical needs form has not been returned, the adult services specialist should follow-up with the client and/or medical professional.

Do **not** authorize home help services prior to the date of the medical professional signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is **before** the date on the DHS-390, payment for home help services must begin on the date of the application.

Example: The local office adult services unit receives a DHS-54A signed on 1/18/2011 but a referral for home help was never made. The adult services staff enters a referral on ASCAP and mails an application to the client. The application is returned to the office with a signature date of 2/16/2011. Payment cannot begin until 2/16/2011, or later, if the provider was not working during this time period.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

Therefore, pursuant to the above policy, an applicant must provide a medical needs form completed by enrolled Medicaid provider in order to receive HHS. Moreover, in that form, the provider must certify a medical need for assistance with at least one personal care activity.

Here, Appellant failed to provide such a medical needs form. The medical needs form she did provide was from her psychiatrist and failed to certify a medical need for assistance with any personal care activities. Additionally, when given opportunities to provide another form, Appellant failed to do so. Appellant and her representative do claim that Appellant's doctor assured them that the doctor sent in a medical needs form. However, ASW ██████████ credibly testified that no additional form was received and Appellant presents no evidence of any subsequent medical needs form.

The requirements for HHS are clear and Appellant did not satisfy that criteria as she failed to provide a medical needs form that meets all of the requirements found in policy. Accordingly, after providing Appellant ample time to provide a complete and satisfactory medical needs form, the Department properly denied Appellant's application.

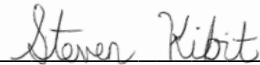
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DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
Date Signed: 8/12/2013

Date Mailed: 8/12/2013

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.