

**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. 2013-50375 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 ██████████. Appellant appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. Venessa Woods, Adult Services Worker ("ASW"), appeared as a witness 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 ██████████, Appellant applied for the HHS program. (Exhibit A, p 8) Appellant is a ██████ year old Medicaid beneficiary diagnosed with COPD, CAD, hypertension, major depression, hepatitis C, and cirrhosis of the liver. (Exhibit A, p 12)
2. Appellant lives with her husband. (Exhibit A, p 9; Testimony)
3. Prior to the home visit, the ASW had informed Appellant that she would also need a Medical Needs form completed for her husband. The ASW sent Appellant a Medical Needs form on which she whited out the patient's name of ██████████ and changed it to ██████████. (Testimony)
4. However, when the Medical Needs form for ██████████ was returned to DHS, ██████████ name had been whited out and ██████████ name was

replaced under patient name. As such, this ██████████ Medical Needs form, completed by Appellant's husband's doctor, Dr. Peter Thoms, indicates that patient ██████████ needs assistance with shopping, laundry and housework. (Exhibit A, p 11)

5. On ██████████, Dr. ██████████ completed a DHS-54a Medical Needs form indicating that Appellant needed assistance with bathing, dressing, transferring, mobility, taking medications, meal preparation, shopping, laundry, and housework. (Exhibit A, p 12)
6. On ██████████, the Department's ASW made a home visit to conduct an initial assessment. (Exhibit A, p 9; Testimony)
7. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. If a responsible relative is unable to provide services because of his or her own medical needs, that relative must also submit a Medical Needs form. (Adult Services Manual (ASM) 120, 11-1-2011, Pages 4-5 of 6)
8. On ██████████ the ASW contacted ██████████ office. The doctor's office could not confirm that the Medical Needs form completed on ██████████ was for Appellant's husband because it had been altered. (Exhibit A, p 10; Testimony)
9. On ██████████, the Department sent an Adequate Negative Action Notice to Appellant indicating that her HHS application was denied because there was a responsible relative residing in the home with Appellant. (Exhibit A, p 6)
10. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (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 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) 120, 5-1-2012, addresses responsible relatives:

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.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The specialist would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks.

Example: Mrs. Jones is in need of home help services. Her spouse's employment takes him out of town Monday thru Saturday. The specialist may approve hours for shopping, laundry or house cleaning.

*Adult Services Manual (ASM) 120
May 1, 2012
Pages 4-5 of 6*

The ASW testified that prior to making a home visit, she informed Appellant that she would also need a Medical Needs form completed for her husband. The ASW sent Appellant a Medical Needs form on which she whited out the patient's name [REDACTED] and changed it to [REDACTED]. However, when the Medical Needs form for [REDACTED] was returned to DHS, [REDACTED] name was whited out and [REDACTED] name was replaced under patient name. As such, this [REDACTED] Medical Needs form, completed by Appellant's husband's doctor, Dr. [REDACTED], indicates that patient [REDACTED] needs assistance with shopping, laundry and housework. The ASW testified that on [REDACTED], she made a home visit to conduct an initial assessment. The ASW indicated that during the assessment, Appellant's husband was up and moving around and assisting Appellant. The ASW indicated that Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. The ASW testified that on [REDACTED], she contacted Dr. [REDACTED] office to try to confirm if the Medical Needs form completed on [REDACTED] was for Appellant's husband, but the doctor's office was

unable to confirm this because the form had been altered. Because she did not have a Medical needs form for Appellant's husband, on [REDACTED], the ASW sent an Adequate Negative Action Notice to Appellant indicating that her HHS application was denied because there was a responsible relative residing in the home with Appellant.

Appellant testified that the forms she submitted were not whited out and she does not know what could have happened to them.

The ASW properly considered the availability and ability of the Appellant's husband to provide care for Appellant. 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 (ASG Glossary) 12-1-2007, Page 5 of 6. Appellant's spouse meets the definition of a responsible relative. Under Department policy, HHS for the Appellant could only be authorized for those services or times that the responsible relative is unavailable or unable to provide. Here, the Appellant claimed that her husband was unable to assist her but she did not provide a Medical Needs form for her husband confirming this, as required per policy. Appellant's HHS application was properly denied based on the information available to the ASW at the time of the assessment.

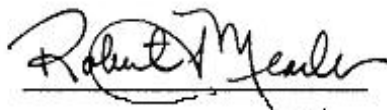
Appellant was advised that she could reapply for HHS at any time. Appellant was further advised to ensure that the Medical Needs forms for her and her husband were properly completed before submission to DHS.

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 HHS application based on the information available.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[REDACTED]
Docket No. 2013-50375 HHS
Decision and Order

cc:

[REDACTED]

Date Signed: 7/31/2013

Date Mailed: 7/31/2013

***** 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.