

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2013-50379 HHS
Case No. 40648629

██████████
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 held on ██████████. Appellant appeared on her own behalf. Appellant's witness was her husband, ██████████. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Supervisor and ██████████, Adult Services Worker ("ASW"), appeared as witnesses 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 HHS. (Exhibit A, p 11) Appellant is a ██████ year old Medicaid beneficiary diagnosed with knee and back pain and hypertension. (Exhibit A, p 9)
2. Appellant lives with her husband. (Exhibit A, p 9)
3. On ██████████ the Department's ASW made a home visit to conduct an initial assessment. (Exhibit A, p 9; Testimony)
4. On ██████████, the ASW spoke to Appellant's husband by telephone. During the call, Appellant's husband informed the ASW that he is on SSI, that he had surgery about 10 years ago, that he has seizures but that they

are controlled by medication, and that he is able to care for himself. (Exhibit A, p 9; Testimony)

5. 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. (Adult Services Manual (ASM) 120, 11-1-2011, Pages 4-5 of 6)
6. On ██████████, the Department sent an Adequate Negative Action Notice to the Appellant indicating that her HHS application was denied because there was a responsible relative residing in the home with Appellant. (Exhibit A, p 7)
7. 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, 11-1-2011, 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
November 1, 2011
Pages 4-5 of 6*

The Department's ASW testified that she conducted an initial assessment with Appellant on ██████████ and discovered that Appellant lived with an able and available relative, her husband. The Department's ASW indicated that Appellant's husband had surgery 10 years ago, but is able to care for himself. The Department's ASW also indicated that Appellant's husband has seizures, but that the seizures are controlled by medication.

Appellant testified that her husband cannot care for her because he has a lot of illness himself and can only lift 25 pounds. Appellant also indicated that Appellant cannot cook and that he could have a seizure at any time. Appellant testified that her husband is not strong enough to help her in and out of the bath.

Appellant's husband testified that he now has a letter from his doctor indicating that he cannot care for his spouse, but the letter did not exist at the time the ASW made her decision in this matter. Appellant's husband was advised to hang on to the letter for use if his wife ever reapplies for HHS.

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. The 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 the services. Here, Appellant's husband is able to care for himself and his seizures are controlled by medication. As such, he should be able to care for Appellant. Appellant's HHS application was properly denied based on the information available to the ASW at the time of the assessment.


[REDACTED]
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The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied the Appellant's HHS application based on the information available at that time.

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]
cc: [REDACTED]

Date Signed: 8/1/2013

Date Mailed: 8/1/2013

***** 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.