

**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. 2013-51439 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held ██████████. Appellant appeared and testified on his own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from the ██████████ DHS ██████████ office testified as witnesses for the Department.

ISSUE

Did the Department properly suspend Appellant's Home Help Services?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a ██████ year-old Medicaid beneficiary who has been diagnosed with quadriplegia, atrial fibrillation, congestive heart failure, diabetes mellitus, hypertension, and polymyalgia rheumatic. (Respondent's Exhibit A, page 15).
2. Appellant has been authorized for ██████ hours and 36 minutes of HHS per month, with a total monthly care cost of \$ ██████. (Respondent's Exhibit A, page 19).
3. Starting on ██████████, Appellant had a Medicaid deductible or spend-down of \$ ██████ per month. (Respondent's Exhibit A, page 14).
4. Also, Appellant's scope of coverage code was changed to "2C" on ██████████. (Respondent's Exhibit A, page 14).
5. Clients with a scope of coverage 2C are not eligible for Medicaid or any Medicaid services until they have met their monthly deductible or spend-

down obligation. Additionally, once they do meet that monthly spend-down, their Medicaid is only eligible for the remainder of that month. (Adult Services Manual (ASM) 105, November 1, 2011, pages 1-2 of 3).

6. Appellant did not meet his spend-down for ██████████ and, consequently, his Medicaid remained inactive for that month and no HHS payment was issued. (Testimony of Appellant; Testimony of ASW ██████████).
7. On ██████████, Appellant telephoned ASW ██████████ to discuss the lack of payment. During that meeting, he informed her that he now has a spend-down. She explained to him what a spend-down was and how he would have to meet that spend-down each month for his Medicaid to become active. (Respondent's Exhibit A, page 10; Testimony of Appellant; Testimony of ASW ██████████).
8. Appellant has never met his spend-down and his scope of coverage has remained at 2C since ██████████. (Respondent's Exhibit A, page 14).
9. Accordingly, his Medicaid has been inactive since that time. (Respondent's Exhibit A, page 14; Testimony of ASW ██████████).
10. Moreover, pursuant to policy, no HHS payments have been made since Appellant's Medicaid became inactive. (Testimony of ASW ██████████).
11. On ██████████, the Department sent Appellant an Advance Negative Action Notice stating that his HHS case would be suspended effective ██████████ due to his failure to meet his spend-down and his inactive Medicaid. (Respondent's Exhibit A, pages 5-9).
12. The Michigan Administrative Hearing System (MAHS) received a Request for Hearing filed by Appellant with respect to the spend-down. (Respondent's Exhibit A, page 3).

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, pages 1-2, 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.

The above Department policy therefore requires a HHS participant to have full coverage Medicaid or have met the monthly Medicaid spend-down, in order to be eligible for the HHS program. Here, Appellant's Medicaid status indicates he had a deductible, or spend-down (scope of coverage code 2C), that must be met each month before Medicaid coverage is active (scope of coverage code 2F) for the remainder of that month.

Appellant's monthly spend-down was \$ ██████████ starting ██████████ and his scope of coverage has remained 2C since that time, indicating that the monthly spend-downs were not met.

The ASW subsequently determined that Appellant's HHS case must be suspended because there was an un-met monthly spend-down and no active Medicaid since that spend-down was established. The ASW also noted that Appellant's monthly spend-down amount exceeded the total monthly care cost of his HHS authorization and, therefore, the Medicaid Personal Care Option for keeping Appellant's HHS open was not applicable.

In response, Appellant argues that he did not understand what a spend-down was at first and that, once he learned about, he disagreed with the calculation of his spend-down amount. However, as discussed during the telephone hearing, this Administrative Law Judge does not have jurisdiction over Medicaid determinations or calculations of spend-downs. DHS has jurisdiction over eligibility issues, not DCH, and the ASW must rely on the determinations made at DHS. Appellant has been advised to file a hearing request in the appropriate forum so that a separate hearing can be scheduled to address his concerns with DHS.

Appellant indicated he would file a request for hearing with DHS regarding Medicaid eligibility and, because Appellant's request for hearing also included the issues of DHS Medicaid eligibility and the amount of spend-down, Appellant's 90-day time period for requesting a hearing with DHS should be extended, but not longer than 90 days from the date of this hearing.

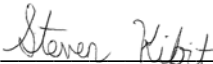
With respect to the decision at issue here, the evidence establishes that the Appellant has a monthly spend-down; he has never met that spend-down; and the monthly spend-down exceeded the total monthly care cost of the Appellant's HHS authorization. Based on that evidence, the suspension of his HHS case was appropriate.

DECISION AND ORDER

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

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]
Docket No. 2013-51439 HHS
Decision and Order

cc:



Date Signed: 9/3/2013

Date Mailed: 9/3/2013

***** 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.