

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. 2013-59991 HHS

██████████
Appellant.
_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ ██████████. Appellant's cousin and authorized representative appeared on the Appellant's behalf. ██████████, a worker with ██████████ testified on the Appellant's behalf. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from the ██████████ County DHS ██████████ District Office, appeared as a witness for the Department. ██████████ Adult Services Supervisor was also present but did not testify.

ISSUE

Did the Department properly deny Appellant's request 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. Appellant is a ██████-year-old (██████████) Medicaid beneficiary. (Testimony).
2. Appellant is legally blind, cannot hear in either ear, has dementia, and congestive heart failure. (Exhibit A, p. 8, 10, 13).
3. On ██████████, Appellant's physician completed a DHS-54A indicating that Appellant had a medical need for assistance with all of the personal care items listed on the medical needs form, however, the DHS-54A does not contain the doctor's National Provider Identifier Number, so it is not valid. (Exhibit A, p. 14).

Docket No. 2013-59991 HHS
Decision and Order

4. On [REDACTED], the ASW, did a home visit with the Appellant, his prospective provider, and a family member, and did a face-to-face assessment to determine Appellant's eligibility for HHS. The ASW determined the Appellant was blind, deaf, had congestive heart failure, and had a recent stroke. The ASW found the Appellant needed help with bathing, meal preparation, medications, laundry, housework, mobility, shopping, toileting, dressing, and grooming. (Exhibit A, pp. 11-13 and testimony).
5. The ASW determined the Appellant was living in a house with two other individuals, and as part of his rental agreement he is receiving both room and board. The ASW requested additional information in order to determine what services the Appellant was receiving as part of the rental agreement, and whether certain services were shared with the other residents in the house so she could properly authorize services. The ASW did obtain a copy of the Appellant's rental agreement, but was not provided any detailed information as to the services he was receiving as part of his rental agreement, or whether any of the services were shared. (Exhibit A, pp. 9, 13, 15-16 and testimony).
6. On [REDACTED] the Department issued an Adequate Action Notice to Appellant informing him that HHS would be denied because the Department was provided insufficient information and unable to determine eligibility. (Exhibit A, pp. 6-8 and testimony).
7. On [REDACTED], MAHS received a Request for Hearing signed by the Appellant's cousin [REDACTED]. On [REDACTED] MAHS received another request for hearing signed by the Appellant appointing [REDACTED] as the Appellant's authorized representative. (Exhibit A, p. 4, 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 101 (11-1-2011) (hereinafter "ASM 101") addresses what services are included in Home Help Services. ASM 101 states in part:

Payment Services Home Help

Home Help Services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home Help Services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home Help Services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, Intermediate Care Facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities must be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **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.

Personal care services which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

**Docket No. 2013-59991 HHS
Decision and Order**

An individual must be assessed with at least One Activity of Daily Living (ADL) in order to be eligible to receive Home Help Services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

Example: Ms. Smith is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater. [ASM 101, pages 1-2 of 4].

* * *

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding of encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive. [ASM 101, pp. 3-4 of 4].

Docket No. 2013-59991 HHS
Decision and Order


Here, the ASW testified on [REDACTED] she sent out an Adequate Action Notice to Appellant informing him that his request for HHS would be denied because the Department was provided insufficient information and unable to determine eligibility for HHS. (Exhibit A, pp. 6-9). The ASW stated the Appellant was living in a house with two other individuals, and as part of his rental agreement he is receiving room and board. The ASW requested additional information from the Appellant in order to determine what services the Appellant was receiving as part of the rental agreement, and whether certain services were shared with the other residents in the house, or whether they might be duplicative of services that might otherwise be covered by HHS, so she could properly determine the needed services.

The ASW stated she did obtain a copy of the Appellant's rental agreement, but was not provided any detailed information as to the services he was receiving as part of his rental agreement, or whether any of the services were shared. The ASW stated she could not authorize HHS for the Appellant because she did not receive the information requested from the Appellant. (Exhibit A, pp. 15-16).

The ASW referenced the policy on available services contained in ASM 101, which indicates that needed services are determined by the comprehensive assessment conducted by the adult services specialist. The ASW also referenced the policy on available services contained in ASM 101 that is quoted above, which indicates that home help services must not be approved for services provided for the benefit of others, or services provided by another resource at the same time.

During the hearing, Appellant's witness indicated she was the Appellant's prospective provider and she works for a commercial provider [REDACTED]. She stated she assists Appellant with just about everything including bathing, grooming, dressing, shopping, and housework. The Appellant's witness stated the Appellant really needs help. The witness indicated they brought new paperwork to the hearing that was not previously made available to the ASW. She further stated the paperwork could not be provided earlier in part because the Appellant was in transition and moved to another home. The Appellant's witness stated she was also providing services to [REDACTED] other individuals living with the Appellant.

The preponderance of reliable evidence in this case demonstrates that the Appellant does need assistance with some of his ADLs and IADLs. However, due to the ASW's inability to determine what services the Appellant was receiving as part of the rental agreement, and whether certain services were shared with the other residents in the house, or whether they might be duplicative of services that might otherwise be covered by HHS, she could not properly determine the needed services as required by policy. It is further noted that the DHS 54A previously submitted is invalid as it does not contain the doctor's National Provider Identifier Number. The policy quoted above requires activities to be certified by a Medicaid enrolled medical professional. Accordingly, the Department's decision must be sustained.


Docket No. 2013-59991 HHS
Decision and Order

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 request for HHS.

IT IS THEREFORE ORDERED THAT:

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



William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: 

Date Mailed: 

WDB/db

cc: 

***** 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.