

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. 2013-60175 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 on ██████████. Appellant appeared and testified on her own behalf. ██████████, Appellant's husband, also testified as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from the ██████████ County DHS-██████████ office appeared as witnesses for the Department.

ISSUE

Did the Department properly decide not to authorize retroactive HHS payments for the time period of ██████████ through ██████████?

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 by a doctor with non-insulin-dependent diabetes mellitus; lower back ache; arthritis; degenerative joint disease in her knees; and anxiety. Appellant also reports suffering from depression. (Respondent's Exhibit A, page 16).
2. Appellant has been receiving HHS since at least ██████████. (Respondent's Exhibit A, page 18).
3. In ██████████, Appellant married ██████████. (Testimony of Appellant).
4. At that time, she was authorized for 28 hours and 36 minutes of HHS per month, with a total monthly care cost of \$ ██████████ per month. (Respondent's Exhibit A, pages 18, 20).

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5. Starting on ██████████, Appellant had a Medicaid deductible or spend-down of \$ ██████████ per month. (Respondent's Exhibit A, page 15).
6. Also, Appellant's scope of coverage code was changed to "2C" on ██████████. (Respondent's Exhibit A, page 15).
7. 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 105 (11-1-2011), pages 1-2 of 3).
8. Appellant did not meet her spend-down in ██████████ and her scope of coverage remained 2C for that month. (Respondent's Exhibit A, page 15).
9. Accordingly, no HHS payment was issued for that month because Appellant's Medicaid was inactive. (Testimony of Nunley).
10. On ██████████, ASW ██████████ conducted an annual redetermination of Appellant's services with Appellant and Appellant's provider. (Respondent's Exhibit A, page 11).
11. During that redetermination, ASW ██████████ noted that she was unable to update Appellant's HHS because Appellant's Medicaid was inactive due to the spend-down. (Respondent's Exhibit A, page 11).
12. ASW ██████████ also noted that she asked Appellant about her Medicaid eligibility and spend-down. Appellant reported that she had a hearing regarding those issues coming up in ██████████. (Respondent's Exhibit A, page 11).
13. According to Appellant, her Medicaid eligibility was affected by her marriage and she had to get eligibility issues resolved with her Medicaid worker. (Testimony of Appellant).
14. Appellant also reported during the redetermination that she had recently gotten married. (Respondent's Exhibit A, page 11).
15. ASW ██████████ then notified Appellant that Appellant could not receive HHS if she had a responsible relative, such as a spouse, able and available to provide the necessary care. (Testimony of Appellant; Testimony of ASW ██████████).
16. However, as Appellant's payments had already stopped due to her inactive Medicaid, ASW ██████████ did not take any action on the basis of Appellant having a spouse. (Testimony of ASW ██████████).

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17. Appellant's scope of Medicaid coverage remained 2C for the time period of ██████████ through ██████████ and, consequently, she received no HHS payments for that time period. (Respondent's Exhibit A, page 15; Testimony of ASW ██████████).
18. Appellant's spend-down was removed starting ██████████ and her scope of coverage since that time has been 1F. (Respondent's Exhibit A, page 15).
19. However, even though Appellant's Medicaid became active again starting ██████████, her HHS payments did not resume at that time. (Testimony of Appellant; Testimony of ASW ██████████).
20. Moreover, on ██████████, the Department sent Appellant written notice that her HHS would be terminated on ██████████ because "Policy does not allow home help services payments to a client if there is an able and responsible relative (spouse) available to assist client." (Respondent's Exhibit A, page 4).
21. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing filed by Appellant. (Respondent's Exhibit A, pages 3-4).
22. In that request, Appellant asserted that her husband is disabled and unable to take care of her. (Respondent's Exhibit A, page 3).
23. After the appeal was filed, Appellant was able to provide all the documents and information necessary to demonstrate that her husband is unable to provide the services Appellant was authorized HHS for. (Testimony of ASW ██████████).
24. Accordingly, ASW ██████████ authorized HHS payments, in the amount of \$ ██████████ per month for the time period of ██████████ through ██████████. (Respondent's Exhibit A, page 18).
25. ASW ██████████ could not authorize retroactive payments for the time period of ██████████ through ██████████ because Appellant's Medicaid was inactive during that time period. (Respondent's Exhibit A, page 15; Testimony of ASW ██████████).

CONCLUSIONS OF LAW

As described above, the action that triggered this appeal was a ██████████ Advance Negative Action Notice sent to Appellant advising her that her HHS would be terminated on ██████████ because of a responsible relative seemingly able and available to provide care. See Respondent's Exhibit A, page 4.

However, Appellant's HHS had already stopped long before that notice was sent.

Starting ██████████, Appellant automatically stopped receiving HHS payments because her Medicaid was inactive. Her Medicaid was inactive because she had an unmet spend-down at that time.

Appellant continued to have an unmet spend-down and inactive Medicaid until ██████████.

Appellant's Medicaid became active again on ██████████ and her HHS payments should have resumed at that time.

However, for some unknown reason, they did not and Appellant has not received an HHS payment since ██████████.

Nevertheless, both the lack of payments since ██████████ and the subject of Appellant's appeal, *i.e.* the termination of her HHS due to the responsible relative policy, were resolved prior to the hearing.

As described above, after the appeal was filed, Appellant was able to provide all the documents and information necessary to demonstrate that her husband is unable to care for her and ASW ██████████ therefore authorized HHS payments, in the amount of \$ ██████████ per month, for the time period of ██████████ through ██████████.

ASW ██████████ could not, however, authorize retroactive payments for the time period of ██████████ through ██████████ because Appellant's Medicaid was inactive during that time.

To the extent the lack of retroactive payments for that time period is at issue, the Department's decision must be affirmed.

With respect to Medicaid scopes of coverage and eligibility for HHS, Adult Services Manual 105 (11-1-2011), pages 1-2, states:

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.

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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 that, between ██████████ and ██████████ ██████████, she 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 scope of coverage during that time period remained 2C, indicating that the monthly spend-downs were not met. Accordingly, ASW ██████████ could not authorize retroactive payments for the time period of ██████████ through ██████████ because Appellant's Medicaid was inactive during that time.

In response, Appellant argues that she was told that her HHS payments were stopping because she had gotten married and her husband was responsible for her care. According to Appellant that decision was wrong and she should therefore receive retroactive payments starting ██████████.

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However, as described above, her payments automatically stopped prior to the Department discovering that she was married due to her inactive Medicaid. Moreover, while ASW ██████ did notify Appellant that Appellant could not receive HHS if she had a responsible relative, such as a spouse, able and available to provide the services, did not take any action on the basis of Appellant having a spouse at that time because Appellant's payments had already stopped due to her inactive Medicaid.

Additionally, Appellant indicated during the ██████ annual redetermination that she was appealing the calculation of her spend-down and that she had a hearing coming up in August of that year. That hearing would not have involved the Home Help Program as that program does not make eligibility determination or calculate spend-downs. What happened during that hearing is unclear, but Appellant did eventually have her spend-down removed, just not for the time period at issue in this case.

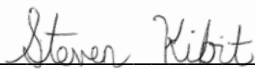
In any event, the Department did not make the determination regarding Appellant's scope of Medicaid coverage between ██████ through ██████ and ASW ██████ must rely on the determinations of eligibility made by Appellant's Medicaid worker. Accordingly, after determining that Appellant's husband was unable to provide care, ASW ██████ only authorized payments for periods when Appellant had active Medicaid.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly decided not to authorize retroactive HHS payments for the time period of ██████ through ██████.

IT IS THEREFORE ORDERED THAT:

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



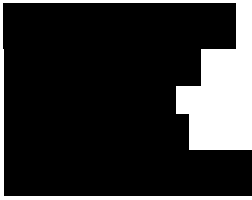
Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

██████████
Date Signed: 10/2/2013

Date Mailed: 10/2/2013

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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.