

**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. 2013-62147 HHS

██████████

██████████

██████████

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 ██████████ ██████████ caregiver, represented the Appellant. ██████████, the Appellant, was present. ██████████, Appeals Review Officer, represented the Department. ██████████ Adult Services Worker ("ASW"), and ██████████ Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly suspend the Appellant's Home Help Services ("HHS") authorization?

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary who has been authorized for HHS.
2. An annual redetermination of the Appellant's HHS case was completed on ██████████. (Exhibit 1, page 9)
3. On ██████████, the ASW sent the Appellant a Home Visit letter regarding the appointment time for the next annual redetermination. (Exhibit 1, page 5; ASW Testimony)
4. When the ASW went to the Appellant's home for the scheduled home visit no one was there. (ASW Testimony)
5. On ██████████, the Department sent the Appellant an Advance Action Notice, which informed him that effective ██████████ the HHS case would be suspended because he did not make himself available for the scheduled home visit. (Exhibit 1, pages 5-8)

6. On ██████████, the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, 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 (ASM) 120 addresses the comprehensive assessment Requirements:

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the client in his/her place of residence.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as necessary, but minimally at the six month review and annual redetermination.

Adult Services Manual (ASM) 120, 11-1-2011,
Page 1 of 5.
(Underline added by ALJ)

Adult Services Manual (ASM) 170 addresses suspensions of HHS payments:

Suspension of Home Help Payments

The adult services specialist may choose to suspend payments, rather than terminate payments and initiate closing procedures, in the following circumstances:

- Client's Medicaid has ended and it appears to be temporary.
- Client's provider fails to meet qualification criteria. This allows the client time to locate a new provider.
- Provider logs were not submitted timely but it is believed the client and provider will return completed forms within a specified time period noted on a negative action notice.

Note: Any suspended payment action must be temporary. The adult services specialist should allow no more than 90 days for the situation to be resolved. (The DHS-390, Adult Services Application and the DHS-54A, Medical Needs form, are valid for 90 days after case closure). Case closure procedures should be initiated once it has been determined the situation that resulted in the suspension will not be resolved.

*Adult Services Manual (ASM) 170, 11-1-2011,
Page 1 of 2.*

Adult Services Manual (ASM) 150 addresses notification of eligibility determinations, including suspensions:

Advance Negative Action Notice (DHS-1212)

The DHS-1212, Advance Negative Action Notice, is used and generated on ASCAP when there is a reduction, suspension or termination of services. Appropriate notations must be entered in the comment section to explain the reason for the negative action.

- Reduced - decrease in payment.
- Suspended - payments stopped but case remains open.
- Terminated - case closure.

Negative Actions Requiring Ten Day Notice

The effective date of the negative action is ten business days **after** the date the notice is mailed to the client. The effective date must be entered on the negative action notice.

Adult Services Manual (ASM) 150, 11-1-2011,
Page 2 of 4.

An annual redetermination of the Appellant's HHS case was completed on [REDACTED]. (Exhibit 1, page 9) On [REDACTED] the ASW sent the Appellant a Home Visit letter regarding the appointment time for the next annual redetermination. (Exhibit 1, page 5; ASW Testimony) When the ASW went to the Appellant's home for the scheduled home visit no one was there. (ASW Testimony) Accordingly, on [REDACTED], the ASW sent the Appellant an Advance Action Notice, which informed him that effective [REDACTED] the HHS case would be suspended because he did not make himself available for the scheduled home visit. (Exhibit 1, pages 5-8) The Appellant's HHS payments stopped because the annual redetermination was overdue. The ASW also testified that the same process is utilized for issuing action notices and home visit letters. (ASW Testimony)

The Appellant disagrees with the suspension. The Appellant and his caregiver testified that they never received the notice of the home visit. However, they did receive the [REDACTED] Advance Action Notice. (Appellant and Caregiver Testimony) The Appellant and his caregiver further testified they did not receive the subsequent Home Visit letter issued by the ASW on [REDACTED]. However, the second home visit was scheduled with the Appellant's caregiver over the phone. (Appellant and Caregiver Testimony; Exhibit 1, page 5)

The second scheduled home was completed on [REDACTED]. The ASW issued a [REDACTED] Advance Negative Action Notice regarding her determination from this year's annual redetermination of the Appellant's HHS case. (Appellant, Caregiver, and ASW Testimony) As explained on the record, this hearing proceeding is limited to reviewing only the [REDACTED] Appellant an Advance Action Notice suspending the Appellant's HHS case. If he has not already done so, the Appellant can still file a timely request for hearing regarding the [REDACTED] Advance Negative Action Notice to contest that determination.

The evidence indicates that the Department did not complete the required [REDACTED] month review and then waited over one year to schedule the required annual redetermination of the Appellant's case. The case contact history shows that a Home Visit letter was issued to the Appellant on [REDACTED]. (Exhibit 1, page 5) The testimony of the Appellant and his caregiver indicated they were not available for the first scheduled home visit because they did not receive the notice. Further, the Appellant and his caregiver stated they did not receive the notice for the second home visit, which had been scheduled by phone. They only received the Advance Action Notices. (Appellant and Caregiver) It is very unusual that the only correspondence the Appellant did not

receive were the home visit letters. The ASW testified the same process is utilized when issuing both home visit and advance action notices. (ASW Testimony)

However, the ASW could not continue the Appellant's HHS authorization without completing the required home visit because the annual redetermination was overdue. (ASW Testimony) The ASW properly suspended the Appellant's HHS case, rather than terminating payments and closing the case, to try to reschedule and complete the annual redetermination because this situation had the potential to be resolved within [REDACTED] days. The Department provided sufficient evidence to support the suspension of the Appellant's HHS authorization because the required home visit and annual redetermination were not completed at that time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly suspended the Appellant's HHS authorization based on the available information.

IT IS THEREFORE ORDERED THAT:

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

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

***** 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.