

**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. 2013-64490 HHS
Case No. ██████████

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. ██████████, 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 terminate Appellant from the Home Help Services (HHS) program?

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, born ██████████, who is diagnosed with hypertension, osteoporosis, avascular necrosis, end stage renal disease, hemodialysis, scoliosis, and renal osteodystrophy. Appellant is also blind in her right eye and has had a kidney transplant. (Exhibit A, p 10; Testimony)
2. Appellant has received HHS since at least ██████. (Exhibit A, p 14)
3. On ██████████, the ASW visited Appellant's home to conduct an annual reassessment. During the reassessment, Appellant informed the ASW that she is married and has been married for a couple of years. Appellant stated that her husband lives with her and does not have any disabilities except for being non-insulin dependent diabetic. (Exhibit A, p 12 Testimony)

4. 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)
5. On ██████████, the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective ██████████ because there was a responsible relative residing in the home with Appellant. (Exhibit A, pp 5-8)
6. 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 on [REDACTED], he visited Appellant's home to conduct an annual reassessment. During the reassessment, Appellant informed the ASW that she is married and has been married for a couple of years. Appellant stated that her husband lives with her and does not have any disabilities except for being non-insulin dependent diabetic. Based on this information, the ASW indicated that on [REDACTED], he sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective [REDACTED] because there was a responsible relative residing in the home with Appellant.

Appellant testified that she is not married and only said she was married during the reassessment because her nurse was there and did not want to have to explain to the nurse her real living situation. Appellant indicated that she has evidence showing that the gentleman in question does not live with her.

Appellant was advised that the ASW could only base his decision on the information she provided to him. Because she informed the ASW that she was married and that her husband was able and available to assist her, he had no choice but to terminate her HHS. Appellant was further advised that she could reapply for HHS at any time if she is, in fact, not married.

The ASW properly considered the availability and ability of Appellant's husband to provide care for Appellant based on the information given to him by 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. Appellant's spouse meets the definition of a responsible relative. 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 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: October 15, 2013

Date Mailed: October 15, 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.