

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2013-69110 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 ██████████. ██████████ appeared and testified on behalf of the Appellant. Appellant also testified on his own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) testified on behalf of 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 (██████████) who has been diagnosed with depression, hypertension, diabetes, neuropathy, and low back pain. (Exhibit A, p. 17 and testimony).
2. On ██████████, Department of Human Services (DHS) received a DHS-54A certifying Appellant's medical needs for HHS. (Exhibit A, pp. 17).
3. On ██████████, DHS received Appellant's completed application for HHS. (Testimony).
4. On ██████████, ASW ██████████ did a home visit to conduct a routine assessment of Appellant's eligibility for HHS. Based on the comprehensive assessment, the ASW determined that the Appellant lives with his spouse, his adult son, and needs assistance with bathing, grooming, laundry, housework, and shopping. Ms. ██████████ gave the

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Appellant a DHS 54A Medical Needs form for his wife, so she could have it completed by her doctor to certify that she had disabilities which would make her unable to care for the Appellant. (Exhibit A, pp. 15, 18 and testimony).

5. On [REDACTED], the ASW sent Appellant an Adequate Action Notice requesting the Appellant to forward a DHS 54A Medical Needs form to establish whether the Appellant's spouse had any disabilities which would render her unable to care for the Appellant. The notice advised that the DHS 54A needed to be returned by [REDACTED] or the requested HHS would not be authorized. (Exhibit A, pp. 7-10 and testimony).
6. On [REDACTED], the ASW sent another Adequate Action Notice notifying Appellant that his request for HHS was being denied effective [REDACTED], because a responsible relative, his spouse, was in the home and the Appellant had not provided DHS with the requested medical needs form showing that his spouse was unable to assist Appellant with his daily tasks. (Exhibit A, pp. 11-14 and testimony).
7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Exhibit A, pp. 4-6).

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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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.

The Adult Services Manuals used by the Department outline the applicable policy in this case and, in a number of places, they explicitly address a caseworker's prohibition from authorizing home health services if there is an available responsible relative able to assist with personal services.

For example, Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") expressly provides:

Services not Covered by Home Help Services

Home Help Services must **not** be approved for the following:

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- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). [ASM 101, page 3 of 4.]

Similarly, Adult Services Manual 120 (11-1-2011) (hereinafter "ASM 120") provides:

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. [ASM 120, pages 4-5 of 5, emphasis added].

In light of the above policy, the Department properly considered the availability and ability of the Appellant's wife to provide care for the Appellant. As discussed above, services which a responsible relative is able and available to provide are not covered by HHS and the Department cannot authorize payments for such services.

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 (12-1-07), page 5 of 6. It is undisputed that Appellant is legally married to his wife in this case and, accordingly, she is a responsible relative.

Given that Appellant's wife is a responsible relative the Department can only authorize payments for HHS if the wife was unavailable or unable to provide the services for Appellant. As defined in the ASM 120, "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." "Unavailable" means "absence from the home, for employment or other legitimate reasons."

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ASW [REDACTED] testified she did a home visit with Appellant and his prospective provider on [REDACTED]. The ASW stated the Appellant told the ASW that his wife and adult son/provider lived with him. The ASW asked if the Appellant's wife was able to take care of him and the Appellant said no. The ASW stated she then explained to the Appellant his wife was considered a responsible relative and they would have to present proof that she was unable or unavailable to provide care or the case would be denied. The ASW stated she gave the Appellant a DHS 54A Medical Needs form for his wife to get filled out and have returned. The ASW stated she explained this all to the Appellant and believed he understood what was needed. The ASW further stated that no translator was requested by the Appellant for the home visit.

The ASW stated that she sent Appellant an Adequate Action Notice on [REDACTED] requesting him to send in a DHS 54A Medical Needs form in order to establish whether his spouse had any disabilities which would render her unable to care for the Appellant. The notice advised that the DHS 54A needed to be returned by [REDACTED] or the requested HHS would not be authorized. The ASW stated she waited until [REDACTED], but never received anything from the Appellant or his wife. The ASW stated that another Adequate Action Notice was sent out to the Appellant on [REDACTED] indicating his request for HHS was denied.

Here, the only dispute is whether Appellant's wife is able to provide the necessary assistance to Appellant. However, the Appellant and/or his spouse failed to provide DHS the necessary DHS 54A Medical Needs form to establish that she is unable to care for the Appellant. The relevant policies are clear on this issue, and since the Department did not receive the required medical needs form for the Appellant's wife to show she is disabled and unable to assist the Appellant, the Department was forced to deny the requested HHS services.

Appellant's representative did testify the Appellant's wife was disabled and could not take care of the Appellant due to her condition. The Appellant's witness listed the wife's maladies including, migraines, arthritis, hypertension, depression, and she stated that the Appellant's wife had recently seen a psychiatrist. The Appellant's witness testified they submitted a doctor's letter with the request for a hearing, and also had new medical information that they brought with them to the hearing. The Appellant's witness suggested that if the DHS 54A medical needs form was given to the Appellant and his son at the assessment they may not have understood the form.

The Appellant also testified in his own behalf. The Appellant gave confusing testimony. It appears from his testimony that he was given a medical needs form for his wife at the time of the assessment, but it is not clear what actually happened to the form. At first he said he did not understand the medical needs form. Thereafter, it appeared from the Appellant's testimony that his wife had gotten a letter from her doctor, which was returned to DHS instead of the medical needs form. Later the Appellant claimed that he actually got a medical needs form from the doctor and took it to DHS. Despite the Appellant's testimony no DHS 54A Medical Needs form was received by DHS certifying that the Appellant's wife was disabled and unable to care for the Appellant. All DHS ever received was the medical record and letter submitted along with the Appellant's

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request for a hearing. Claims that the Appellant may not have understand the medical needs form, does not appear credible since there was no problem getting the Appellant's own medical needs form completed and returned to DHS. (See Exhibit A, pp. 5-6, 17).

Appellant's wife is considered to be a responsible relative who is both able and available to provide Home Help Services to Appellant, having failed to provide the necessary documentation showing otherwise. Therefore, the Department could not authorize payments for such services and its decision must be affirmed. The Department indicated at the conclusion of the hearing that the Appellant could reapply, and if the proper medical needs forms were submitted for both the Appellant and his wife, it is likely that DHS would be able to authorize HHS services for the Appellant.

According to policy, with a responsible relative who has not been shown to be unable or unavailable DHS cannot authorize HHS for the Appellant.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for Home Help Services.

IT IS THEREFORE ORDERED THAT:

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

William D Bond

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

Date Signed: October 31, 2013

Date Mailed: October 31, 2013

cc:

[REDACTED]

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***** 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.