

**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. 14-010103 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant appeared and offered testimony on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department. Interpreting the hearing was ██████████ (██████████)

ISSUE

Did the Department properly deny the Appellant's Home Help Services (HHS) request?

FINDINGS OF FACT

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

1. On ██████████, the Appellant requested HHS. (Exhibit A, p. 11)
2. As of ██████████, the Appellant was married. (Testimony)
3. As of ██████████, there was no evidence submitted to the Department to indicate the Appellant's husband was either unavailable or unable to provide care for the Appellant. (Testimony)
4. On ██████████, the Department sent the Appellant an Adequate Negative Action notice. The notice indicated the Appellant's HHS request was being denied. (Exhibit A, pp. 7-9; Testimony)

5. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, p. 4)

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.

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.

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.*

Based upon my review of the facts and evidence presented at the hearing, I find that the Appellant was married to and living with her spouse at the time of the denial. Additionally, there was no evidence to indicate the spouse was unable or unavailable to provide for the Appellant at the time the HHS request was denied.

The Appellant in this case focused her testimony on her ailments and the reasons why she needs assistance. She did not however rebut the testimony that she was married or argue that her husband was neither available nor unable to provide care.

Although I sympathize with the Appellant in this matter, my role is limited to determining whether or not the Department followed the applicable policies when they denied the HHS request. And based upon the fact, the Appellant was married and the spouse was both available and able to provide for the Appellant, the Department had no choice but to deny the request. Therefore, I find the Appellant's HHS request was properly denied based on the information available to the ASW at the time of the adequate negative action.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

/s/ _____
Corey A. Arendt
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

[REDACTED]
Docket No. 14-010103 HHS
Decision and Order

CAA [REDACTED]

cc: [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [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.