

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. 14-011000 HHS

██████████

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██████████

Appellant.

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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 his own behalf. His wife ██████████ also testified for the Appellant. ██████████ Appeals Review Officer of the Department of Community Health represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from ██████████ County DHS testified for the Department.

ISSUE

Did the Department properly terminate Appellant's 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 (DOB: ██████████) Medicaid beneficiary who was receiving HHS. (Exhibit A, pp. 2, 13, 19 and testimony).
2. On ██████████ ASW ██████████ made a home call at the Appellant's residence and spoke with the Appellant's son who advised that the Appellant was married and he and his wife live together. (Exhibit A, p. 17 and testimony).
3. On ██████████, the ASW called the Appellant who advised that he was married and that his wife lives in the house with the Appellant. Appellant said his wife was trying to get disability, was going to school, and trying to find a job. The ASW advised that information on the wife's status was needed so a redetermination could be made concerning his eligibility for HHS. (Exhibit A, pp. 17, 18 and testimony).

4. On ██████████ the ASW did a home visit and determined the wife was living with the Appellant. She advised that she wasn't going to school and did not have a job. The wife said she needed help herself and had a doctor's note from ██████████ that indicated she continued to be unable to work, but there was no documentation concerning the nature of the alleged disability. (Exhibit A, pp. 17, 18 and testimony).
5. On ██████████ the ASW sent Appellant an Advance Negative Action Notice that his HHS was being terminated effective ██████████. The notice stated that the Appellant's wife was in the house, she was not in school or working, and should be providing care for the Appellant. (Exhibit A, pp. 10-12).
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (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.

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.

Here, Appellant's HHS was terminated on the basis that Appellant's wife is a responsible relative and it had not been shown that she was unable and/or unavailable to care for him. Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") addressed responsible relatives at the time of the action in this case:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) 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

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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. [ASM 120, p. 6 of 7].

Here, the ASW properly considered the availability and ability of the Appellant's wife to provide care for Appellant. Appellant's wife meets the definition of a responsible relative. Under Department policy, HHS for the Appellant could only be authorized for those services or times which the responsible relative is unavailable or unable to provide care. Appellant provided no documentation to show that his wife was either unavailable or unable to provide care for him.

ASW [REDACTED] made a home call at the Appellant's residence on [REDACTED] and spoke with the Appellant's son who advised that the Appellant was married and he and his wife live together. On [REDACTED] the ASW called the Appellant who advised that he was married and that his wife lived in the house with him. The ASW stated on [REDACTED], he did a home visit and determined the Appellant's wife was living with him. Appellant's wife advised the ASW that she wasn't going to school and did not have a job. The wife said she needed help herself and had a doctor's note from [REDACTED] that indicated she continued to be unable to work. The doctor's note provided no details concerning the nature of the alleged disability. When questioned by the Appellant, [REDACTED] stated that he did not find any DHS 54A Medical Needs Forms in the Appellant's file establishing that the Appellant's wife has a disability that makes her unable to care for the Appellant.

Appellant and his wife testified during the hearing. The Appellant expressed confusion about this matter. He said they had provided the DHS 54A forms concerning his wife to previous workers, and did not understand why they were not in his file. He said he knows things come up missing in DHS files. Appellant further said he was [REDACTED] feet tall

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and weighs █████ pounds. His wife is █████ feet tall and weighs █████ pounds. He said he is syncopic, a medical condition that causes him to pass out, and his wife would not be able to lift him should he pass out.

Appellant's wife said she is married to the Appellant and they live in the same household. She acknowledged that she was aware that she needed to get a DHS 54A Medical Needs form to establish her disability. Appellant's wife said the ASW only gave her one week to get the document before he sent out the Advance Negative Action notice. She said she has not been able to get a DHS 54A as of yet, because she got a new doctor and her old doctor has moved. She said all she has been able to get as of now was a temporary off work slip.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating his HHS. Here, given the above evidence and the information available to the Department at the time it made its decision, Appellant failed to meet his burden of proof and the Department's decision must be affirmed. The Appellant and his wife have had since the first of █████ to obtain a DHS 54A Medical Needs form to establish her disability and to show she is unable to care for the Appellant so he can qualify for HHS. To date they have failed to do so.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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

William D Bond

William D. Bond
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: ██████████

Date Mailed: ██████████

WDB/db

cc: ██████████
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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.