

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909**

IN THE MATTER OF:

Docket No. 14-011004 HHS
Case No. [REDACTED]

[REDACTED]

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 [REDACTED]. The Appellant appeared on her own behalf and offered testimony. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly stop HHS payments to the Appellants HHS provider?

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 [REDACTED] year old Medicaid beneficiary who was receiving HHS payments from the Department. (Exhibit A, p. 9; Testimony)
2. On or around [REDACTED], the Appellant notified the Department that her provider had quit. (Testimony)
3. On [REDACTED], the Department stopped making payments to the Appellant's former provider. (Exhibit a, p. 16; Testimony)
4. Between approximately [REDACTED] and [REDACTED], the Appellant attempted to contact her worker to inform them she had selected a new provider ([REDACTED]). (Testimony)
5. On [REDACTED], the Department sent the Appellant an Advance Negative Action notice. The notice indicated the Appellant must contact the ASW by [REDACTED].

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██████████ to inform the ASW who the new provider would be or else the HHS case would close effective ██████████. (Exhibit A, pp. 6-8; Testimony)

6. Between ██████████ and ██████████, the Appellant informed the Department that her new provider was Michael Dent. (Testimony)
7. On ██████████, the Department sent the Appellant provider logs. (Exhibit A, pp. 6-8; Testimony)
8. On ██████████, the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit A, p. 5)

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 item 363 addresses HHS provider enrollment and payment authorization:

Provider Enrollment

Home help providers **must** be enrolled on the Model Payments System (MPS) prior to payment authorization. See the [ASCAP user guide](#) on the adult services home page for directions on enrolling a provider.

Home Help Services Statement Of Employment (MSA-4676)

The purpose of the Home Help Services Statement of Employment (MSA-4676) is to serve as an agreement between the client and provider which summarizes the general requirements of employment. The form is completed by the adult services worker as part of the provider enrollment process.

An employment statement must be signed by **each** provider who renders service to a client.

The statement:

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- Confirms an understanding of the personal care services provided, how often services are provided, and wages to be paid.
- Requires positive identification of the provider by means of a picture ID.
- Documents an understanding by both parties that the client, not the State of Michigan, is the employer of the provider.
- Stipulates that the client must report any changes in the work schedule to the adult services worker.
- Instructs the provider to repay the State of Michigan for services he or she did not provide.
- Informs the provider that a Personal Care Services Provider Log (DHS-721) must be completed and returned to the worker on time to avoid delay in payment.
- Informs a provider receiving public assistance that this employment will be reported to the Department of Human Services.
- The client and provider must sign the MSA-4676 statement indicating their understanding of the terms of the agreement.

Distribution of Employment Statement

- The adult services worker will make **two copies** of the completed and signed form.
- Give one copy to the client and one to the provider.
- Place the **original** form in the client's case record.

PAYMENT AUTHORIZATION
Payment Authorization System

Enter home help provider enrollments and payment authorizations on the Model Payment System (MPS) using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled on the MPS provider database. See the ASCAP user guide on the [adult services home page](#).

HHS payments to providers must be:

- Authorized for a specific type of service, period of time and payment amount.
- Authorized to the person actually providing the service.
- Made payable jointly to the client and the provider.

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Any payment authorization that does **not** meet the above criteria must have the reason fully documented in the **Payments** module, exception rationale box, in **ASCAP**. The supervisor will document through the electronic approval process.

Adult Services Manual (ASM 363) 9-1-2008, Pages 18-19 of 24

* * *

At the time of the hearing, the Appellant's provider was enrolled and receiving payments. The sole issue in dispute is the absence of payments made between ██████████ and ██████████ ██████████.

The Appellant in this case, testified she made numerous attempts to contact her worker between ██████████ and ██████████ by placing several phone calls and leaving several messages. The Appellant indicated she not once received a return call.

The ASW testified the Department was not aware of a new provider until after ██████████ ██████████ when they had sent out the Advance Negative Action letter.

The Department keeps general narrative logs. The logs are used to track communication that takes place between clients and workers. The logs that were provided by the Department and can be found in Exhibit A do not indicate any communication took place between the Department and the Appellant from ██████████ through ██████████. The logs however also do not indicate any communication took place regarding the Appellant notifying the Department prior to ██████████ of her provider quitting or indicate when after ██████████ ██████████ that the Appellant contacted the Department to notify them of her new provider. For this reason and the fact I found the Appellant to be slightly more credible than the ASW as the Appellant had a clearer recollection of the dates, times and events in question, I find that more likely than not, the Appellant did in fact attempt to contact her worker several times to notify them of her new provider prior to ██████████.

Department policy in this area is clear. Payments to providers cannot be made until the provider is enrolled in the MPS provider database. However, this does not mean the Department can prevent provider enrollment by failing to return calls or accept calls from the Appellant when the Appellant is attempting to identify a new provider.

For the above reasons, I find the Department should provide the Appellant with provider logs and redetermine the Appellant's eligibility for HHS payments beginning ██████████.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly stopped HHS payments.

IT IS THEREFORE ORDERED THAT:

The Department's decision is REVERSED.

The Department is ordered to issue the Appellant logs covering the time period of [REDACTED] through [REDACTED] and redetermine the Appellant's eligibility for HHS payments beginning [REDACTED].

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CAA [REDACTED]

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.