

**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. 14-008416 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 ██████████. Appellant personally appeared and testified. ██████████, Appellant's caregiver, appeared on behalf of Appellant as a witness.

██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department. ██████████, appeared an Adult Services Supervisor for part of the administrative hearing.

ISSUE

Did the Department properly calculate and process Appellant's warrants for 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 female, who is a beneficiary of Medicaid and SSI programs.
2. On ██████████ the ASW conducted an in-home redetermination assessment for Appellant's HHS case. Unrefuted evidence is that Appellant's HHS case remained unchanged from the prior year.
3. The ASW testified that he did not issue any notice of case action on the grounds that where the redetermination remains the same, policy does not require notice. (Testimony)

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4. Appellant's previous grant and current grant is the same-\$██████████ per month. (Exhibit A)
5. Since Appellant's ██████████ review, Appellant's provider has been consistently paid less than Appellant's approved grant of \$██████████. (Exhibit A)
6. Appellant's logs were not available; the Department did not bring Appellant's file to the administrative hearing. The ASS left the hearing to obtain the file, but after an extended absence, was asked by the Department ARO to return without the file. The ASS could not offer any explanation for the discrepancy in the approved and issued amounts.
7. On ██████████ Appellant requested an administrative hearing.
8. The Department witnesses agreed that there is a discrepancy in the approved and issued amount but have no knowledge or information as to the discrepancy.

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.

There is no issue herein regarding eligibility. However, Appellant's confusion regarding the reduction in her payments was rationally based on the belief that the Department reduced the grant at redetermination as a reduction in Appellant's caregiver warrants took place following the review. As noted above, the Department's testimony was that it does not issue any written notice to recipients at review/redetermination where the grant remains the same as the previous level.

The Adult Services Manual (ASM) policy regarding warrants and payments is found primary in ASM 140-Payment Authorizations, and ASM 160-Warrants.

In this case, the Department and Appellant agree that Appellant's provider was not paid for the amount approved for Appellant's grant. However, the Department did not know why. The Department was unable to present any evidence on Appellant's logs as the Department failed to bring the case file to the administrative hearing. As noted above,

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the supervisor left the room to obtain the file, but after an extended period of time, she was asked to return by the Department's ARO albeit without the file. The ASW during her absence believed that the ASS might be able to shed light on the payments, as such are ultimately approved by the ASS. However, the ASS did not have any knowledge or information regarding the discrepancy.

While an Appellant does have the burden of proof at an administrative hearing, the Department has the burden of going forward in such a manner as to adequately explain the action, and, cite the authority relied upon in taking the action. The Department could not do so in this case. In an attempt to clarify the matter by examining the logs, the Department did not bring the file to the administrative hearing, not could the Department locate Appellant's file. Moreover, the written evidence submitted by the Department contained such fine print that it was not legible.

The Department agreed that the evidence and the warrant(s) issued are inconsistent. As the Department has failed to meet its burden of going forward, and, failed to sufficiently explain the inconsistency, the Department must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department failed to properly calculate and process Appellant's HHS warrant since Appellant's ██████████ redetermination.

IT IS THEREFORE ORDERED that:

The Department's actions are REVERSED.

The Department is ordered to conduct an investigation/review of Appellant's payments from ██████████ to the present, consistent with the dictates of this decision and consistent the all applicable law and policy, and issue any supplemental payments to Appellant's provider to which she may be entitled.

The Department is also ordered to issue a written statement to Appellant regarding the outcome of its investigation. Appellant shall retain a right to an administrative hearing for 90 days from the date of that written correspondence should she dispute any of the Department's findings.

It is so Ordered.

/s/ *Janice Spodarek*
Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

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JS/ [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.