

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 14-014093 HHS

██████████

██████████

██████████

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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████ Appellant's caregiver, was also present. ██████████, Appeals Review Officer, represented the Department of Community Health ("DCH" or "Department"). ██████████, Adult Services Worker ("ASW") at the ██████████ County Department of Human Services ("DHS"), testified as a witness for the Department.

Following the hearing, the record was left open until ██████████ at Appellant's request so that she could submit her phone records as evidence. However, the Michigan Administrative Hearing System (MAHS) has not received any phone records as of the date of this decision and order, which is over a week after the record closed.

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 Medicaid beneficiary who has been diagnosed with degenerative joint disease, hip arthritis, carpal tunnel syndrome, and chronic back pain. (Respondent's Exhibit A, page 14).
2. Appellant has been receiving HHS in the amount of ██████ hours and ██████ minutes per month, with a total monthly care cost of ██████. (Respondent's Exhibit A, page 18).
3. On ██████████, ASW ██████████ sent Appellant a letter regarding an upcoming home visit scheduled for ██████████ between ██████████ and ██████████ (Respondent's Exhibit A, page 11).

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4. However, on the day of the home visit, ASW [REDACTED] could not access Appellant's building. (Respondent's Exhibit A, page 12; Testimony of ASW [REDACTED]).
5. She also telephoned Appellant twice, but Appellant did not answer and Appellant's phone was not accepting messages. (Respondent's Exhibit A, page 12; Testimony of ASW [REDACTED]).
6. On [REDACTED], ASW [REDACTED] sent Appellant written notice that her HHS would be terminated effective [REDACTED], because the worker had been unable to complete the scheduled home visit. (Respondent's Exhibit A, pages 6-10).
7. The notice also advised Appellant that Appellant had until the effective date of the action to contact the worker and reschedule the assessment. (Respondent's Exhibit A, pages 8-9).
8. Appellant failed to contact ASW [REDACTED] by [REDACTED] and the termination took effect. (Testimony of ASW [REDACTED]).
9. On [REDACTED], MAHS received the request for hearing filed in this matter. (Respondent's Exhibit A, pages 4-5).

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.

Here, Appellant's HHS were terminated on the basis that the worker was unable to locate Appellant for a required review of services. Regarding case reviews of HHS, Adult Services Manual 155 (5-1-2013) provides in part:

CASE REVIEWS

Independent living services (home help) cases must be reviewed every six months. A face-to-face contact is required with the client, in the home.

A face-to-face or phone contact must be made with the provider at six month review and redetermination to verify services are being furnished.

Note: If contact is made by phone, the provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local DHS office must take place at the next review or redetermination.

*ASM 155, page 1 of 2
(Emphasis added by ALJ)*

Similarly, Adult Services Manual 115 (5-1-2013) provides in part:

CONTACTS

The specialist must, at a minimum, have a face-to-face interview with the client, prior to case opening, then every six months in the client's home, at review and redetermination.

ASM 115, page 3 of 3

Here, the face-to-face contact in Appellant's home was not completed as required by the above policy and the Department therefore terminated Appellant's HHS. According to the Department, the assessment was not completed due to the fact that Appellant failed to appear for the scheduled home visit.

In response, Appellant testified that, after she received the letter notifying her of the scheduled assessment, she telephoned ASW ██████████ and informed her that Appellant was unavailable on that day, due to a doctor's appointment, and needed to reschedule. Appellant also testified that ASW ██████████ then said she would get back in touch with Appellant. Appellant further testified that she has phone records documenting those calls.

However, ASW ██████████ credibly testified that she does not recall speaking with Appellant. Appellant's testimony during the hearing also suggested that she was confused as to what ASW ██████████ phone number was and it is unclear that the records would support Appellant's testimony. Moreover, while the record was left open so that Appellant could submit any phone records, she failed to do so and there is no evidence supporting her testimony.

Accordingly, the undersigned Administrative Law Judge finds that Appellant has failed to meet her burden of proving by a preponderance of the evidence that the Department erred. Due to Appellant's failure to appear for the scheduled home visit, the required

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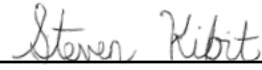
review was not completed and, without such a face-to-face contact in Appellant's home, HHS could no longer be authorized and the Department properly terminated her services.

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**.



Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: 

Date Mailed: 

SK/db

cc: 

***** 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.