

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

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IN THE MATTER OF:

██████████

Appellant

Docket No. 14-014983 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 appeared and testified on her own behalf. ██████████, Appeals Review Officer; ██████████, Adult Services Specialist; and ██████████, Adult Services Supervisor, appeared as witnesses for the Department of Community Health (DCH or the Department).

ISSUE

Did the Department properly determine that Appellant's Home Help Services (HHS) authorization payments should begin ██████████?

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 HHS recipient.
2. Appellant has been diagnosed with hypertension, dymimdeua, diabetes mellitus, fatigue/lightheadedness and blood clotting problems. (Respondent's Exhibit 14)
3. Appellant was approved for HHS services from ██████████ forward.
4. In ██████████, Appellant requested to change her HHS services caregiver.
5. On ██████████, Appellant had an appointment with her caseworker and her new caregiver to fill out the paperwork. The new caregiver forgot her Social Security card.
6. The HHS caregiver provided a copy of her Social Security card in ██████████.

7. The HHS caregiver provided an identification card which had the incorrect address on it.
8. On [REDACTED] the HHS provider called the specialist to schedule an appointment to bring in her corrected identification. The specialist gave her a scheduled appointment for [REDACTED].
9. On [REDACTED], the specialist submitted the DHS 2351 and the providers corrected identification to the clerical unit update basket.
10. On [REDACTED], provider payments for the HHS provider granted on the system with the start date of [REDACTED] to [REDACTED].
11. On [REDACTED], Appellant filed a request for hearing, stating that her HHS caregiver had been working since [REDACTED] and had not been paid. Appellant requested payment for her HHS caregiver for [REDACTED] to [REDACTED].

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 AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges. Adult foster care, homes for the aged and home help agency providers must also be registered with Vendor Registration; see ASM 136, Agency Providers.

Home help services payments to providers must be:

- Authorized for a specific period of time and payment amount. The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
- Authorized **only** to the person or agency actually providing the hands-on services. ASM 140, page 1.

Appellant testified on the record that she requested a hearing because her caregiver was working but was not getting paid to work. She was approved for service on [REDACTED] and her first worker worked until [REDACTED]. At that time it became necessary for Appellant to acquire a new HHS service provider. On [REDACTED] Appellant had an appointment with her caseworker and her new caregiver to fill out the paperwork. The new caregiver forgot her Social Security card and the following Monday she mailed in a copy of her Social Security card. On [REDACTED] Appellant spoke with her caseworker Mrs. Whitt, who said she had misplaced the paperwork. Appellant stated that she had to reschedule the appointment for [REDACTED] to fill out the appropriate paperwork. On [REDACTED] Appellant and her caregiver went to Department of Human Services at [REDACTED] to do the paperwork again. Appellant testified that it is not fair for her caregiver to have worked and not be paid for the work.

Respondent's representative testified that the process of certifying Appellant's HHS provider was not complete until the HHS provider gave the Department all the documents which were needed to certify her as eligible to become an HHS provider/caregiver. Because Appellant had a new provider, a 2351 form was completed and submitted for a criminal background check which would determine if the new caregiver could be approved as an authorized provider. On [REDACTED], the caseworker reiterated to Appellant that her provider had to be properly certified in order to be paid for providing home healthcare services to Appellant. The HHS provider was not certified until [REDACTED], the date the provider provided all necessary information. On [REDACTED], the Department determined that the provider passed the eligibility screening with an eligibility begin date of [REDACTED].

Department policy dictates that all home help providers must be enrolled in Bridges by a designee at the local County DHS office prior to authorizing payment. Once a provider is enrolled, Bridges will assign the provider a seven digit identification number. The adult services specialist must allow 24 hours from the time of enrollment for Bridges to interface with ASCAP, ASM 135, page 4. Department policy also dictates that a provider must display a valid picture identification card and Social Security card, ASM 135, page 3.

This Administrative Law Judge finds that the Department representative provided detailed, credible evidence and testimony that she followed Department policy and procedure when determining that appellants HHS provider was eligible to receive payment for her services effective [REDACTED].

The Appellant's grievance centers on dissatisfaction with the Department's current policy. The Appellant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written Delegation of Authority signed by the Michigan Department of Community Health Director, James K. Haverman, which states:

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulation, or overrule or make exceptions to Department policy. (February 22, 2013)

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co v Baker*, 295 Mich 237; 294 NW168 (1940).

This Administrative Law Judge does not possess equitable powers and, therefore, cannot award benefits or payments as a matter of fairness. Certain criteria have to be met and specific events have to occur before HHS payments can be authorized. The assessment process was not completed and the provider was not enrolled in this case until [REDACTED]. Consequently, any services provided before that time were unauthorized and the Department cannot pay for them.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined the eligibility date to be [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined the Appellant's HHS provider should be certified as eligible to receive payment for services beginning [REDACTED], based on the available information contained in the record.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Landis Y. Lain

Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

LYL [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.