

**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. 14-005998 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 ██████████. The Appellant and the Appellant's Son (Mr. ██████████) appeared and offered testimony. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Manager (ASM), appeared as witnesses for the Department.

ISSUE

Did the Department properly deny the Appellant's Home Help Services (HHS) request?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On or around ██████████, the Appellant requested HHS. (Exhibit A, p. 13)
2. On ██████████, the Adult Services Worker (ASW) conducted an in-home assessment. The Appellant and the Appellant's husband participated in the assessment. During the assessment, the Appellant was observed moving about the residence as well as go up and down the stairs without the use of any adaptive equipment. The Appellant told the ASW she was able to perform all of her own personal care activities without assistance. The Appellant's husband told the ASW he was able to assist with bathing, dressing, shopping, laundry and housework. (Exhibit A, pp.

3. On ██████████, the Department sent the Appellant an Adequate Negative Action notice. The notice indicated the Appellant's HHS request was being denied. (Exhibit A, pp. 8-11; Testimony)
4. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, pp. 6, 7)

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.

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 (ASM) 120, 11-1-2011, addresses responsible relatives:

Responsible Relatives

Activities of daily living 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 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.

*Adult Services Manual (ASM) 120
November 1, 2011
Pages 4-5 of 6*

The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18.

*Adult Services Glossary (ASG Glossary)
12-1-2007, Page 5 of 6.*

Based upon my review of the facts and evidence presented at the hearing, I find that the Appellant was married to and living with her spouse at the time of the denial. Additionally, the Appellant's spouse indicated to the ASW during the assessment that he was able and available to provide care.

The Appellant in this case, spent an ample amount of time arguing that she needed care and that her husband was ashamed to admit that he could not provide for her. Although the Appellant now argues that her husband cannot provide for her, at the time the Department took the action, the best evidence available (assessment) indicated the spouse was available and able to provide care.

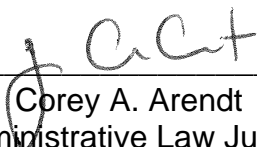
Although I sympathize with the Appellant in this matter, my role is limited to determining whether or not the Department followed the applicable policies when they denied the HHS request. And based upon the fact, the Appellant was married and the spouse was both available and able to provide for the Appellant, the Department had no choice but to deny the request. Therefore, I find the Appellant's HHS request was properly denied based on the information available to the ASW at the time of the adequate negative action.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied the Appellant's HHS request based on the information available at that time.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Corey A. Arendt
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

CAA [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.