

**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. 14-009152 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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant personally appeared but did not testify. Appellant's Guardian and provider, ██████████ appeared on behalf of Appellant.

██████████, Appeals Review Officer, represented the Department. ██████████ ██████████ Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly propose to suspend Appellant's Home Help Services ("HHS") case for the months of ██████, ██████, and ██████████ for failure to turn in the provider logs pursuant to policy requirements?

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 Medicaid beneficiary, who is a recipient of the DAC program.
2. Appellant is approved a large amount of HHS chore hours by her provider.
3. The Department issues provider logs that must be completed each month. Instructions on the provider log state that an "X" must be marked on each day assistance is provided for each listed task. Each month has approximately 371 boxes, and is labor intensive. (Exhibit A.8)
4. Appellant's care giver has been Appellant's provider for ██████ years. For ██████ years, the provider has completed the logs by drawing large circles/scribbles instead of marking approximately 1,116 boxes on each

three month sheet for the reason that “it takes too much time.”
(Representative’s Testimony)

5. On ██████████ the Department issued notice of suspension to Appellant informing Appellant that she could complete the logs as instructed and the case would not go into suspension. The Department verbally explained that pursuant to a recent audit, the Department was requiring that all cases contain clear makings on the provider logs. (Testimony)
6. On ██████████ Appellant’s representative called the Department and stated that chose to go to hearing instead of completing the logs. (Exhibit A.13)
7. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant’s hearing request.

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 (ASM) 101, 11-1-11, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

*Adult Services Manual (ASM) 101,
11-1-2011, Page 1 of 4.*

Applicable ASM policy to the case herein states in part:

...a Provider Log must be completed and returned to the specialist on time to avoid delay in payment. ASM 135, page 6

Policy further states: Suspension of HHS payments may be made where the Provider logs are not submitted timely. ASM 170, p 1.

In this case, evidence on the record indicates that the Provider chose not to complete the logs out of frustration of having followed the same practice for 16 years, and, evidently on the grounds that she felt that the audit reasoning was frivolous.

This ALJ agrees with the provider representative in this case. However, such agreement will not entitle the provider to prevail. The Department is under strict federal mandates to ensure that the evidence in a beneficiary's file is supported by necessary verifications. If not, the State of Michigan may be subject to substantial financial penalties. 42 CFR 435.914. The Department acted in accordance with its policy and procures, and mandates at federal and state law. As such, this ALJ must uphold the Department's action.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's proposed suspension of Appellant's HHS case was correct.

ACCORDINGLY,

The Department's proposed suspension was correct, and, is hereby AFFIRMED.

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

JS [REDACTED]

cc: [REDACTED]

[REDACTED]
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[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.