

**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. 14-009167 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 did not appear. ██████████, Appellant's spouse, represented Appellant.

██████████, Appeals Review Office, appeared on behalf of the Department. ██████████, Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant's Home Help Services ("HHS") case?

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, SSI beneficiary.
2. At all relevant times prior to the negative action herein, Appellant had an HHS case. Appellant has ADL needs that are ranked at a 3 or higher. Appellant is a quadriplegic.
3. On ██████ the ASW conducted a home visit for a redetermination. At that time, the ASW continued Appellant's HHS at previous benefits of 89 hours and 20 minutes per month, \$ ██████.

4. Subsequent to the home visit, Appellant's case was pulled for a 'supervisory review.' (Testimony) The ASW revisited Appellant on ██████████ to assess whether Appellant's spouse fell under the responsible relative definition in ASM policy. The ASW then determined that Appellant's spouse was a responsible relative and took action to close. (Exhibit A.15)
5. On ██████████ the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS will be terminated as he is married and his wife husband is considered a responsible relative under ASM 130. (Exhibit A.12-13).
6. Appellant has been married since ██████████. (Testimony)
7. On ██████████ Appellant filed a Hearing with Michigan Administrative Hearing System. (Exhibit A.5)
8. On ██████████ Appellant's spouse's physician completed a DHS-54A indicating that Appellant spouse has no needs with any ADLs or IADLs. There is no diagnosis of any medical issues on the form. There is no evidence of record that Appellant's spouse meets the definition of "unavailable". (Exhibit B)

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) 120, 5-1-2012, 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
May 1, 2012
Pages 4-5 of 6*

In this case, there is no issue herein (at this time) of repayment or recoupment. The sole issue is whether the DHS properly closed Appellant's case on the ground that policy does not permit services where there is a responsible relative in the home. The ASW properly considered the availability and ability of Appellant's wife to provide care for Appellant based on the information given to him by Appellant. 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. Appellant's spouse meets the definition of a responsible relative. Appellant's HHS application was properly denied based on the information available to the ASW at the time of the assessment.

Appellant argues that she is disabled. However, Appellant has offered no evidence in support of her disability other than a 50 pound weight restriction letter. (Exhibit B) However, that Exhibit is not consistent with a more recent medical report by Appellant's spouse's physician that does not contain any weight restrictions. Thus, it cannot be given substantial weight.

Federal and state law requires that all files of individuals who are recipients of federal programs contain correct and necessary verification(s) to establish eligibility. The burden is on the recipient.

Unrefuted evidence herein is that Appellant is married. Policy requires verification that a spouse in the home trigger ineligibility unless there is evidence that the spouse meets the definition of "unavailable." verification. None is shown here. Appellant's spouse is a

“responsible relative” as defined under federal and state law.

Under ASM 120, Appellant has no eligibility for HHS as her spouse is considered to be a responsible relative. As such, this administrative law judge must uphold the Department’s denial as it is consistent with federal and state law, and, consistent with Department policy.

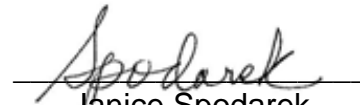
It is noted that the Department indicated that it will give Appellant’s representative information after the administrative hearing regarding the Waiver program. Eligibility for MI-Choice Waiver was not reviewed herein.

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 case.

IT IS THEREFORE ORDERED THAT:

The Department’s decision is AFFIRMED.



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

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.