

**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. 14-013520 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.

██████████, Appeals Review Office, appeared on behalf of the Department. Carla Foster, Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department. ██████████, Office of Inspector General (OIG) Regulation Agent testified as a Department witness.

**ISSUE**

Did the Department properly close Appellant's Home Help Services ("HHS") case on the grounds that Appellant is married?

**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 beneficiary of the Medicaid and SSI programs.
2. Appellant has been a beneficiary of the Home Help Services (HHS) program.
3. On ██████ the ASW entered a progress note stating that Appellant's caregiver called to complain that the "...payment are not enough. During his call, he reported that he married an American woman whom he does everything for ...The referral was sent to OIG" (Exhibit

A.16)

4. On ██████████ the Department issued an Advance Negative Action Notice terminating Appellant's HHS case for the following reason: "It has been reported that the client & provider are married. The client's spouse is able & available to care for the client. The client is ineligible for ILS services." (Exhibit A.6) Payments stopped ██████████. (Exhibit A.5)
5. On ██████████ the ASW entered case notes indicating a phone contact with the client indicating that "the case is under investigation and payment will be authorized." (Exhibit A.16) On ██████████ Appellant's case closed. (Testimony)
6. On ██████████ MAHS received a hearing request from Appellant stating in part: my "...worker cancelled Ahmed Alshammam's check (he's my home health provider) because she thinks we're married...I don't know how to prove we're not married..." (Exhibit A.4)
7. On ██████████ the ASW entered a progress note documenting a phone contact with Appellant indicating that the "...the case has been closed." (Exhibit A.16)
8. The OIG requested that Appellant sign an Affidavit. On ██████████ Appellant signed an Affidavit stating: "I am not now, nor will I ever be (nor have I ever been) married to Ahmed Alshammam." (Evidence submitted at hearing).
9. At the administrative hearing, the OIG testified that a search of the LexisNexis data base that contains names, marriage licenses, addresses, e-mail addresses, phone numbers, voter registrations, vehicle registration information, drivers licenses, physician information, Michigan judgments/lien filings, potential relatives, person associates, showed no evidence or indication that Appellant and her caregiver are or ever were married. (Testimony; Addition to Exhibit A consisting of 23 pages)

### **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, the Department issued a negative action to close Appellant's case on the ground that Appellant is married. Appellant contends that she is not married, and never has been married.

The Department's evidence of Appellant's purported marriage is based on an alleged conversation that Appellant's caregiver had with a Department employee, wherein the caregiver alleged stated that he was married "to an African American woman." Appellant argued that the purported language was odd, that she has never heard her caretaker refer to her as an "African American woman." However, Appellant stated that they do

have a child in common, and being Muslim, it is highly improper to have a child in common and not be married.

As stated in the Findings of Fact, the OIG requested that Appellant sign an Affidavit stating that she is not married. Appellant did so on an Affidavit form titled: "Affidavit/Office of Inspector General." At the hearing, the Department objected on the grounds that Appellant did not have the form notarized. However, the Department's objection is nonsensical--the form does not contain instructions for a notary, the Department never indicated to Appellant that she should have it notarized, and most important, Appellant stated at the hearing under oath that she completed the form and signed it. A notary's signature would only verify Appellant's identity; the Department has more information and verification as to Appellant's identity than any notary's signature would add to an Affidavit.

At hearing, the Department also requested to offer into evidence a DHS-49A signed [REDACTED] that states in Box L that Appellant's spouse is disabled. However, this form was not in existence at the time the Department took its action.

As to the OIG's testimony at hearing, the evidence presented by the OIG was that a 22 page investigation under the LexisNexis data base that searched extensive documentation and data regarding Appellant and an identity search including driver licenses, e-mail addresses, historical person locator, liens/judgments, motor vehicle registrations, phone records, voter registrations, and more. The OIG testified under oath that the investigation did not reveal any evidence, nor did it indicate that Appellant is or ever was married to her provider. (OIG Testimony)

Appellant argues that she has offered to submit any verification the Department deems appropriate. The Department gave Appellant instructions as to how to provide the verification it was requesting. Appellant completed the Affidavit. There has been no showing by the Department that Appellant has failed to cooperate with any request by the Department to obtain or comply with any request for verification. Moreover, the extensive verifications from an extensive data search do not show that Appellant is married, or ever has been married..

The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record.

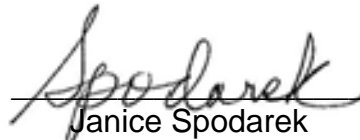
After a careful review of the credible and substantial evidence on the whole records, this ALJ finds that the preponderance of evidence in this case weighs in favor of Appellant's position that she is not married, and, has never been married. As the Department closed Appellant's case on the grounds that Appellant is married, and as the preponderance of evidence does not show that Appellant is married, the action cannot be upheld.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's closure of Appellant's HHS case was not supported by the evidence presented, and thus,

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is REVERSED, and, the Department is ordered to initiate the following: reinstate Appellant's case and payments to the level of benefits that Appellant was at prior the action herein, and issue any supplemental benefits to Appellant to which she may be entitled, if otherwise eligible.



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.