

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:

Docket No. 14-016797 HHS

██████████

██████████

██████████

Appellant

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 at the hearing. Appellant's mother and Legal Guardian, ██████████, appeared and testified on behalf of Appellant. ██████████, Appeals Review Officer and ██████████ ██████████ Adult Services Supervisor for the Department of Human Services (DHS), appeared as a witnesses for the Department of Community Health (MDCH or the Department). State's Exhibit A, pages 1-33 were admitted as evidence.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services (HHS) payment eligibility?

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 was a HHS recipient.
2. Appellant has been diagnosed with paranoid schizophrenia, glaucoma, and back pain.
3. On ██████████, the Department caseworker sent Appellant Notice of a home visit scheduled for ██████████.
4. On ██████████, the Department caseworker sent Appellant an Advance Negative Action notice stating that HHS payment eligibility would be terminated effective ██████████ because of the missed home visit scheduled for ██████████ and because the department was unable to verify the need for continued services.

5. The HHS home visit was not rescheduled by ██████████.
6. On ██████████, the services provider called and attempted to reschedule the home visit. The worker informed the provider that a new worker would be assigned to the case and the new worker will re-schedule the home visit.
7. On ██████████, the Department caseworker mailed a negative action notice to appellant's address stating that HHS services would be terminated effective ██████████ because the attempted home visit to complete the yearly assessment was not successful as no one responded to the doorbell buzzer. (Exhibit A, page 8).
8. On ██████████ the Department received a request for a hearing from the Appellant contesting the Department's negative action.

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) 155, pages 1-2 addresses HHS home visit requirements:

Independent living services (home help) cases must be reviewed every ██████ months. A face-to-face contact is required with the client, in the home.

A face-to-face or phone contact must be made with the provider at ██████ month review and redetermination to verify services are being furnished.

Note: If contact is made by phone, the provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local DHS office must take place at the next review or redetermination.

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.

- Verification of the client's Medicaid eligibility, when home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan, if applicable.
- Review of client satisfaction with the delivery of planned services.
- Reevaluation of the level of care to assure there are no duplication of services.
- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

Case documentation for **all** reviews must include:

- An update of the "**Disposition**" module in ASCAP.
- A review of **all** ASCAP modules with information updated as needed.
- A brief statement of the nature of the contact and who was present in the **Contact Details** module of ASCAP. A face-to-face contact entry with the client generates a case management billing.
- Documented contact with the home help provider.
- Expanded details of the contact in **General Narrative**, by clicking on **Add to & Go To Narrative** button in **Contacts** module.
- A record summary of progress in service plan.

Procedures and case documentation for the annual review are the same as the six month review, with the following addition(s):

- A new DHS-54A certification, if home help services are being paid.

Note: The medical needs form for SSI recipients and Disabled Adult Children (DAC) is **only** required at the initial opening and is not required for the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and annually thereafter.

- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

In the instant case, the Appellant's legal guardian testified that in the past, a letter was sent to Appellant and the Department caseworker would call her to notify her of the home visit and she would go to Appellant's apartment while the home visit was conducted. Appellant's representative stated that she did not receive notification of Appellant's home visit. When she went to pick up his mail she discovered that he had received a notice for a home visit after the visit had been attempted. Appellant is a paranoid schizophrenic and is mentally incompetent, which is why Appellant has a legal guardian. (State's Exhibit A, page 9.) This Administrative Law Judge finds that Appellant's Legal Guardian is the Appellant's authorized representative.

Pursuant to pertinent Department of Human Services policy:

Medicaid

The Department of Community Health (DCH) is responsible for the following medical programs in Michigan:

- Medicaid.
- MICHild.
- Maternity Outpatient Medical Services (MOMS).

The Department of Human Services (DHS) administers Medicaid under the supervision of DCH.

BAM 120, page 1, BPB 2014-2015 July 1, 2014

Medicaid Only

An authorized representative must be one of the following:

- An adult child or stepchild.
- A core relative.
- Designated in writing by the individual.
- Court appointed.
- A representative of an institution (such as jail or prison) where the individual is in custody.

An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf. The AR assumes all the responsibilities of a client; see BAM 105.

AR's must give their name, address, and title or relationship to the client. To establish the client's eligibility, they must be familiar enough with the circumstances to complete the application, answer interview questions, and collect needed verifications.

***Bridges Eligibility Manual 110, pages 9-12
BPB 2014-015, July 1, 2014.***

The Department of Human Services should have notified the Appellant's authorized representative of the home visit. DHS failed to notify the Appellant's authorized representative of the home visit. Notice to Appellant is insufficient under the circumstances.

Appellant's representative also testified that she attempted to contact the department on several occasions but the telephone message queue was full and she was unable to leave a message. When she finally was finally able to contact with the DHS caseworker, the caseworker informed her that a new caseworker would be assigned and that caseworker would be in contact for the home visit for continued HHS services. Appellant's guardian stated that the new caseworker came out and conducted the assessment ██████████. The HHS case has been closed since ██████████.

The department witness testified that there is no requirement in policy that a legal guardian be notified for a home visit for HHS and the notice was properly sent. The department caseworkers who actually worked on the case were not present for the hearing. No one from the Department of Human Services or the Department of Community Health was available to testify from personal knowledge as to what actually occurred during the relevant time period.

This Administrative Law Judge finds that the Appellant's representative provided detailed, credible evidence and testimony that she should have been contacted for the home visit as she is Appellant's Legal Guardian and Appellant has been determined by a ██████████ County Probate Court Judge to be mentally incompetent since ██████████. In addition, the department was aware of Appellant's condition. The department did not establish by a preponderance of the evidence that it was acting in compliance with department policy when it terminated Appellant's HHS. Under the circumstances, the department's decision to close Appellant's HHS case was inappropriate and 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 did not establish by the necessary competent, material and sufficient evidence on the record that it properly cancelled the Appellant's HHS case. MDCH failed to provide proper notice to Appellant's authorized representative of the scheduled home visit.

IT IS THEREFORE ORDERED THAT:

The Department's decision is REVERSED.

1. The department is ORDERED to reinstate Appellant's HHS case to the date of closure and pay to Appellant any HHS benefit services to which he was entitled.
2. The Department is also ORDERED to conduct an Adult Services Comprehensive Assessment for Appellant to determine what services if any the Appellant continues to be entitled to under Department policy.



Landis Y. Lain
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

LYL/db

cc: [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.