

**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. 2014-11368 HHS
Case No. [REDACTED]

[REDACTED]
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 [REDACTED] 13. Appellant's legal guardian [REDACTED] appeared on the Appellant's behalf and offered testimony. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Adult Services Supervisor and [REDACTED], Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant from the Home Help Services (HHS) program?

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 has received HHS since at least [REDACTED]. (Exhibit A, p. 8)
2. From [REDACTED] through [REDACTED], the Appellant received Food Assistance Program (FAP) benefits from the Department of Human Services. During this time, the Appellant's FAP group consisted of herself and her husband Errol Stanford Newsome. (Exhibit A, p. 25, 26; Testimony)
3. On or around [REDACTED], as part of an annual review for HHS, the ASW made contact and interviewed the Appellant and the Appellant's provider ([REDACTED]). During the interview, [REDACTED] indicated the Appellant's husband did not reside in the Appellant's home. (Exhibit A, p. 14; Testimony)

4. At some point in time between [REDACTED] and [REDACTED], the ASW ran a bridges search to verify Mr. Newsome's address. The bridges search revealed Mr. Newsome shared an address with the Appellant and also was a FAP group member. (Exhibit A, p. 14, 25, 26; Testimony)
5. On [REDACTED], the ASW contacted [REDACTED]. The ASW verified Mr. Newsome's name, relationship status and address. (Exhibit A, p. 14; Testimony)
6. On [REDACTED], the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective [REDACTED] because there was a responsible relative residing in the home. (Exhibit A, pp. 5, 6, 10-13; Testimony)
7. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, p. 4)

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 Bridges Eligibility Manual (BEM) item 212 covers FAP group compositions.

FAP group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation; see **LIVING SITUATIONS** in this item.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Spouses who are legally married and **live** together **must** be in the same group. **Living with** means sharing a home where family members usually sleep and share **any** common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share **only** an access area such as an entrance or hallway or non-living area such as a laundry room are **not** considered living together.

The Department's ASW testified that she attempted to verify the residency of the Appellant's husband several times during the review and was consistently told that the husband did not reside in the home. Later upon review of the bridges system, the ASW

discovered that the Appellant and the Husband received other Department benefits and at all times during the receipt of those benefits indicated a shared address. On ██████████, ██████████, the ASW verified with the Appellant's guardian that the Appellant's husband lived in the Appellant's home.

The Appellant's guardian argued that at the time of the review, the Appellant's husband was not residing in the home and that his residency status was intermittent as he moved from place to place. Additionally, the Appellant argued that the Department never inquired as to whether or not the husband was able to provide services.

When I asked the Appellant's guardian about the receipt of FAP benefits, she indicated they were mandatory group members based upon their relationship status alone. However, upon review of the FAP policy, relationship status and residency both go hand in hand in determining mandatory FAP group members.

Based upon my review of the facts and evidence presented at the hearing, I find that the Appellant's guardian was less than forthcoming regarding the husband's residency. If in fact, the husband was not in the home, it should have been reported to the Department of Human Services which would have affected the FAP group composition. And if the husband moved back into the home, the guardian should have notified the Department of the change, not the other way around.

Therefore, I find the ASW properly considered the availability and ability of Appellant's husband to provide care for Appellant based on the best information available to her. 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 case was properly closed based on the information available to the ASW at the time of the advance 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 terminated the Appellant's HHS case based on the information available at that time.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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

[REDACTED]
Docket No. 2014-11386 HHS
Decision and Order

cc:

[REDACTED]

Date Signed: January 10, 2014

Date Mailed: January 10, 2014

***** 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.