

**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. 2014-11534 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's guardian and hearing representative, ██████████, appeared on behalf of 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 deny Appellant's Home Help Services ("HHS") application?

**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 beneficiary under the SSI program.
2. Appellant has a diagnosis pursuant to a DHS-54A with encephalopathy, cognitive impairment. (Testimony). The Department failed to submit the DHS-54A in the initial evidentiary packet.
3. Appellant lives with his Spouse.
4. Appellant's spouse is not disabled.

5. On [REDACTED], the Department sent an Adequate Negative Action Notice to Appellant indicating that his HHS application was denied because there was a responsible relative residing in the home with Appellant. (Exhibit A.6)
6. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1)

### **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, unrefuted evidence is that Appellant's spouse resides in the home with Appellant. Unrefuted evidence is that Appellant's spouse is not disabled and does not otherwise meet the definition(s) of "unavailable" or "unable to provide care" cited in ASM policy and procedure above. Under the above cited authority, Appellant's spouse is a "responsible relative".

Under ASM 120, Appellant has no eligibility for HHS as his spouse is considered to be a responsible relative. Appellant did not dispute the facts. 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 Appellant's representative argued that Appellant needs "24-7" care. As such, Appellant may be eligible for the MI Choice waiver program, not at issue or reviewed herein.

[REDACTED]  
Docket No. 2014-11534 HHS  
Decision and Order

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's HHS application

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

\_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

[REDACTED]  
cc: [REDACTED]

Date Signed: February 12, 2014

Date Mailed: February 13, 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.