

**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. 2014-11540 HHS¹

██████████

██████████

██████████

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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, Appellant's daughter and care provider, appeared and testified on Appellant's behalf. Appellant also testified on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, testified as witnesses for the Department.

Following the hearing, the record was left open for one week at Appellant's request so that she could submit a Notice of Case Action as evidence. That document was received the next day and entered into the record as Petitioner's Exhibit 1. The document was also forwarded to the Department's representative.

ISSUE

Did the Department properly suspend and terminate Appellant's Home Help Services (HHS)?

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 who has been diagnosed with advanced glaucoma; osteoarthritis; chronic obstructive pulmonary disease; blindness; and hypertension. Appellant also suffered a mild heart attack in ██████ and had rotator cuff surgery in the past. (Respondent's Exhibit A, page 18).

¹ This matter was originally coded as a MSB hearing. However, the case clearly involves Home Help Services (HHS) and should have been coded as such. The undersigned Administrative Law Judge is hereby amending the case code. The change in codes is strictly administrative and neither party is affected or prejudiced by the change.

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2. Appellant has been receiving HHS through the Department and was most recently authorized for █████ hours and █████ minutes of HHS per month, with a total monthly care cost of █████. (Respondent's Exhibit A, pages 20).
3. Specifically, Appellant was authorized for assistance with bathing, grooming, taking medications, housework, laundry, shopping, and meal preparation. (Respondent's Exhibit A, pages 17).
4. Effective █████, Appellant's scope of coverage for Medicaid changed to 2B. (Respondent's Exhibit A, page 16).
5. Clients with a scope of coverage 2B are not eligible for Medicaid in general or HHS in particular until they have met their monthly Medicaid deductible obligation. (Adult Services Manual 105 (11-1-2011), pages 1-2 of 3).
6. Given the new scope of coverage and Appellant's inactive Medicaid, the Michigan Department of Human Services' (DHS) computer system, Bridges, stopped issuing payments in Appellant's HHS case. (Respondent's Exhibit A, page 22).
7. On █████, DHS issued a Notice of Case Action providing that Appellant was approved for Medicaid, with no patient pay or deductible, as of █████. (Petitioner's Exhibit 1, page 1; Respondent's Exhibit A, page 16).
8. That Case Action also changed Appellant's scope of coverage back to 1F, effective █████. (Respondent's Exhibit A, page 16).
9. Nevertheless, while Appellant's scope of coverage had changed back to 1F, the change was not immediately reflected on the Bridges computer system. (Testimony of ASW █████).
10. On █████, Appellant's provider contacted ASW █████ to inform her that Appellant was going into the hospital and to inquire about the missing HHS payments. (Respondent's Exhibit A, pages 14-15).
11. ASW █████ checked the Bridges computer system and discovered that no payments had been issued since █████ (Respondent's Exhibit A, pages 14-15; Testimony of ASW █████).
12. ASW █████ also observed that Appellant's scope of coverage was listed as 2B and that her Medicaid was inactive. (Respondent's Exhibit A, pages 14-15; Testimony of ASW █████).
13. Accordingly, that same day, ASW █████ sent Appellant written notice that HHS would be suspended because Appellant had the wrong scope of Medicaid coverage to receive HHS and that her case would be closed if

14. the scope of coverage was not corrected. (Respondent's Exhibit A, pages 5-13).
15. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent's Exhibit A, page 4).
16. On ██████████ ASW ██████ checked the system again and observed that Appellant's scope of coverage was still listed as 2B. (Respondent's Exhibit A, page 14; Testimony of ASW ██████).
17. ASW ██████ then closed out Appellant's case. (Respondent's Exhibit A, page 14; Testimony of ASW ██████).
18. At some point between ██████████ and ██████████, Appellant's scope of coverage was changed to 1F, with an effective start date of ██████████, on the Bridges computer system. (Respondent's Exhibit A, page 16; Testimony of ASW ██████).

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.

With respect to Medicaid scopes of coverage and eligibility for HHS, ASM 105, pages 1-2, stated:

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).

- Appropriate Level of Care (LOC) status.

Medicaid/Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in ASCAP for active services cases.

Medicaid Personal Care Option

Clients in need of home help personal care services may become eligible for MA under the Medicaid personal care option.

Discuss this option with the client and coordinate implementation with the eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is **more** than the MA excess income amount.

If **all** the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP.

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Use the DHS-1210, Services Approval Notice to notify the client of home help services approval when MA eligibility is met through this option. The notice must inform the client that the home help payment will be affected by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option **cannot** continue if the cost of personal care becomes **equal to or less than** the MA excess income amount.

The above Department policy therefore requires a HHS participant to have a scope of coverage of either 1F; 2F; 1D; 1K; or 1T to receive HHS.

Here, Appellant's Bridges Medicaid History indicates that, between ██████████ and ██████████, she had a scope of coverage of 2B. Accordingly, while Appellant's HHS case remained open and no specific negative action was taken by Appellant's ASW, the Bridges computer system stopped issuing payments.

However, the ██████████ Case Action changed Appellant's scope of coverage back to 1F, with an effective start date of ██████████ and Appellant should have started receiving HHS again. Accordingly, the subsequent suspension and termination of her services was in error.

ASW ██████████ credibly testified that the Bridges computer system still did not reflect the change in the scope of coverage at the time she sent out the notice of suspension, ██████████, or the time she closed out Appellant's case, ██████████. Nevertheless, while the apparent failure of Appellant's Eligibility Specialist to timely update the Bridges system regarding Appellant's scope of coverage may excuse ASW ██████████ initial actions, it does not excuse or explain the Department's failure to correct the error in this case once it was discovered.

It is undisputed in this case that, effective ██████████, Appellant was again eligible for HHS and her HHS payments therefore should have resumed rather than being suspended and terminated.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly suspended and terminated Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**. The Department must initiate a reinstatement of Appellant's HHS, with an effective start date of August 1, 2013.

Steven Kibit

Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/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.