

**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. 2014-11817 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ Appellant's grandson, appeared and testified on Appellant's behalf. Appellant also testified on her own behalf. ██████████ Appeals Review Officer, represented the Department of Community Health ("DCH" or "Department"). ██████████ an Adult Services Worker (ASW) from the ██████████ Department of Human Services ("DHS"), testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's application for 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 an ██████-year-old Medicaid beneficiary who has been diagnosed with hypertension; general debility; and chronic back pain. (Respondent's Exhibit A, page 5).
2. In ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 6).
3. ASW ██████████ mailed introduction and application documents to Appellant on ██████████ (Respondent's Exhibit A, page 6).
4. Per policy, those documents indicated that Appellant must return a completed DHS-54A Medical Needs form within ██████████ calendar days, *i.e.* ██████████. (Respondent's Exhibit A, page 13; Testimony of ASW ██████████).

5. DHS has no record of Appellant returning a completed medical needs form by ██████████ or any other date. (Respondent's Exhibit A, pages 6-9; Testimony of ASW ██████████).
6. On ██████████, the Department sent written notice to Appellant indicating that her application for HHS was being denied because no medical needs form was ever returned to the office. (Respondent's Exhibit A, pages 6-9).
7. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent's Exhibit A, pages 4-5).
8. Attached to the request for hearing was a medical needs form signed by Appellant's doctor on ██████████ (Respondent's Exhibit A, page 5).

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 105 (5-1-2013) (hereinafter "ASM 105"), Adult Services Manual 110 (5-1-2013) (hereinafter "ASM 110"), and Adult Services Manual 115 (5-1-2013) (hereinafter "ASM 115"), address the requirements for a medical needs form in order for an applicant to receive HHS.

For example, ASM 105 states in part, on pages 1-3 of 4, that:

GENERAL

Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened to supportive services to assist the client in applying for Medicaid.

Home help services payments cannot be authorized prior to establishing Medicaid eligibility and a face-to-face assessment completed with the client. Once MA eligibility

has been established, the case service methodology **must** be changed to case management.

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.

* * *

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. A completed DHS-54A or veterans administration medical form are acceptable for individual treated by a VA physician; see ASM 115, Adult Services Requirements.

Regarding the deadlines for submitting the required medical needs form, ASM 110 states in part:

REFERRAL INTAKE

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

Registration and Case Disposition

Action

Complete a thorough clearance of the individual in the ASCAP client search and Bridges search.

Complete the **Basic Client** and **Referral Details** tabs of the **Client** module in **ASCAP**.

Supervisor or designee assigns case to the adult services specialist in the **Disposition** module of **ASCAP**.

Documentation

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendar days to return the documentation to the local office.

ASM 110, page 1 of 2

Moreover, with respect to content of the required medical needs form, ASM 115 also states in part:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the the [sic] client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider . . .

ASM 115, page 1 of 3

Therefore, pursuant to the above policy, an applicant must provide a medical needs form completed by enrolled Medicaid provider and certifying a medical need for services in order to receive HHS within ██████████ calendar days of the introduction letter being mailed out.

Here, the Department denied Appellant's application after finding that she failed to return a medical needs form within the required time period. Appellant appealed that denial and her request for hearing states that a medical needs form was personally delivered on ██████████

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request. Here, both Appellant and her grandson/representative testified that Appellant's grandson hand-delivered a completed medical needs form prior to the deadline, but this Administrative Law Judge does not find their testimony to be credible. They could not testify as to when the form was delivered and the date identified in the request for hearing, ██████████ conflicts with the medical needs form itself, which was only signed ██████████. Moreover, DHS has no record of such a document ever being returned and Appellant could not provide any receipt or other documentation indicating that the medical needs form was ever filed.

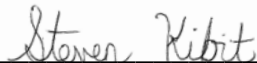
Given the above record, Appellant has failed to meet her burden of proof and the Department's decision must therefore be affirmed. To the extent Appellant wishes to do so, she is free to re-apply for HHS at any time.

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 request for HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.



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

Date Signed: ██████████

Date Mailed: ██████████

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cc:



***** 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.