

**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. 2014-1336 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 ██████████. ██████████ appeared and offered testimony on behalf of the Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker (ASW) and ██████████, Adult Services Manager (ASM) appeared as witnesses for the Department.

ISSUE

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

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 suffers from mental retardation. (Exhibit A, p. 11; Testimony)
2. On ██████████, the Appellant's prior provider notified the ASW that the Appellant was now residing in an adult assisted transitional home that provided "around the clock" care. (Exhibit A, p. 13; Testimony)
3. On ██████████, the Department sent the Appellant an Advance Negative Action notice. The notice indicated the HHS were being terminated.
4. On ██████████, the Michigan Administrative Hearing System received the Appellant's request for hearing. (Exhibit 1)
5. The adult assisted transitional home provides meals, grooming, bathing etc. (Testimony)

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) 101, 11-1-11, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

*Adult Services Manual (ASM) 101,
11-1-2011, Page 1of 4.*

Adult Services Manual (ASM) 125, 11-1-11, addresses HHS eligibility requirements:

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.

Adult Services Manual (ASM 120, 11-1-2011), page 1 addresses coordination with other services:

PARTNERSHIPS

The adult services specialist has a critical role in developing and maintaining partnerships with community resources.

To facilitate these partnerships the adult services specialist will:

- Advocate for programs to address the needs of clients.
- Emphasize client choice and quality outcomes.
- Encourage access and availability of supportive services.

Work cooperatively with other agencies to ensure effective coordination of services.

The Department may not authorize home help services if another resource is providing the same service at the same time.

Adult Services Manual (ASM 170, 11-1-2011), page 1 addresses case closures:

TERMINATION of HOME HELP PAYMENTS

Home help services payments may be terminated and closing procedures initiated, in any of the following circumstances:

- The client fails to meet any of the eligibility requirements.
- Medicaid eligible.
- Medical professional does not certify a need for services on the DHS-54A, Medical Needs form.
- Assessment determines client no longer requires home help services.

- The client no longer wishes to receive home help services.
- **The client is receiving services from another program and this would result in a duplication of services.**

All covered home health services must be rendered in a beneficiary's home, except for those services listed below. Home may be the beneficiary's owned/rented home, an apartment, Assisted Living Facility, Adult Foster Care (AFC) facility, or home of another family member (secondary residence of the beneficiary, i.e., joint custody situation for a minor child).

- Home Health aide services are not a covered benefit for beneficiaries who reside in a Home for the Aged (HFA) or Adult Foster Care (AFC) facility as this would be duplication of personal care services already provided by staff of these facilities.
- MDCH does not cover any Home Health services rendered to a beneficiary in a hospital, nursing facility, Intermediate Care Facility for the Mentally Retarded (ICF/MR), Intermediate Care Facility for the Mentally III (ICF/MI), school or adult day care.

*Medicaid Provider Manual,
Home Health page 2, July 1,
2013.*

On ██████████, the ASW discovered the Appellant to have relocated to an assisted living facility that provided ADL's for the appellant. The ASW concluded following the discovery that the Appellant was no longer eligible for HHS based upon the relocation to the assisted living facility.

Appellant's representative testified to the ADL's that the assisted living facility provided to the Appellant. The assisted living facility was not noted as a provider and did not distinguish itself from an intermediate care facility. The Department however may not authorize HHS if another resource (assisted living facility) is providing the same service at the same time. The arguments made by the Appellant do not qualify the Appellant for services.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of evidence, that the termination of HHS was inappropriate. The Appellant received

Docket No. 2014-1336 HHS
Decision and Order

services from another provider and if HHS were provided this would result in a duplication of services which is not allowed by policy. Accordingly, the HHS termination is upheld.

DECISION AND ORDER

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

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

cc: [REDACTED]

Date Signed: December 3, 2013

Date Mailed: December 3, 2013

***** 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.