

**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. 2014-1858 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 appeared and testified on her own behalf. ██████████, Manager of the Appeals Section of the Department of Community Health, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████ Adult Services Supervisor, from ██████████ County DHS testified as witnesses for the Department.

ISSUE

Did the Department properly 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 systemic lupus erythematosus; anemia; hypertension; atherosclerotic cardiovascular disease; peripheral vascular disease; dyslipidemia; osteoarthritis; debility; and emphysema. (Respondent's Exhibit A, page 11).
2. Appellant has been receiving ██████ hours and ██████ minutes of HHS per month, with a total monthly care cost of ██████. Specifically, Appellant is authorized for assistance with bathing; mobility; housework; laundry; shopping; and meal preparation. (Respondent's Exhibit A, page 14).
3. Appellant has been married while receiving HHS, but was living apart from her husband. (Testimony of Appellant).
4. Appellant and her husband subsequently started living together again. (Respondent's Exhibit A, page 10; Testimony of Appellant).

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5. After learning of the new living arrangement, ASW ██████ informed Appellant that she could no longer receive HHS if her husband was able and available to provide care. (Testimony of ASW ██████; Testimony of Appellant).
6. Appellant asserted that her husband is disabled and cannot provide care. (Testimony of ASW ██████; Testimony of Appellant).
7. Accordingly, Appellant was given an opportunity to provide a DHS-54A Medical Needs Form documenting her husband's disabilities and inability to care for Appellant. (Testimony of ASW ██████; Testimony of Appellant).
8. On or about ██████████, ASW ██████ received a medical needs form with respect to Appellant's husband. However, in that form, Appellant's husband's doctor did not certify that Appellant's husband had a medical need for assistance with any personal care activities and specifically wrote that Appellant's husband can work at any job. (Respondent's Exhibit A, pages 15, 17).
9. On or about ██████████, ASW ██████ received another medical needs form. However, that second form was merely an altered version of the first form, with the doctor's previous findings crossed out and new notes added. (Respondent's Exhibit A, pages 15, 18).
10. Appellant subsequently confirmed that she had made the alterations to the medical needs form herself and resubmitted it. (Respondent's Exhibit A, page 15; Testimony of Appellant; Testimony of ASW ██████).
11. On ██████████ the Department sent Appellant written notice that her HHS would be terminated on ██████████ because her husband is a responsible relative able and available to provide care for her. (Respondent's Exhibit A, pages 7-9).
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent's Exhibit A, pages 5-6).
13. A telephone hearing was then scheduled for ██████████
14. On ██████████, MAHS received a request from Appellant indicating that she wanted an in-person hearing.
15. The matter was then rescheduled as an in-person for ██████████
16. The in-person hearing was held as scheduled on ██████████

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.

Here, Appellant's application for HHS was denied on the basis that Appellant's husband is a reasonable relative able and available to care for her. Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") addressed responsible relatives at the time of the action in this case:

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.

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Here, the ASW properly considered the availability and ability of the Appellant's husband to provide care for Appellant. 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 5-1-2013, page 7 of 9). Appellant's husband therefore meets the definition of a responsible relative. Under Department policy, HHS for the Appellant could only be authorized for those services or times which the responsible relative is unavailable or unable to provide.

Appellant testified that her husband is unable to provide care for her as he is disabled himself. However, as described above, Appellant's husband's disabilities were not documented or verified by a medical professional on a DHS-54A Medical Needs form as required by ASM 120. Instead, Appellant's husband's doctor checked "NO" when asked if Appellant's husband had a medical need for assistance with any personal care activities and specifically wrote that Appellant's husband could work at any job.

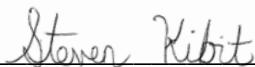
Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating her HHS. Here, given the above evidence and the information available to the Department at the time it made its decision, Appellant failed to meet her burden of proof and the Department's decision must be affirmed.

DECISION AND ORDER

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