

**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. 2014-20748 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 appeared and testified.

██████████, 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 terminate 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 is a ██████ year old Medicaid beneficiary.
2. At all relevant times prior to the negative action herein, Appellant had an HHS case. Appellant has ADL needs that are ranked at a 3 or higher.
3. On ██████████ Appellant called her ASW to report that she was married on ██████████ and was enjoying living with "her husband and no kids." (Exhibit A.12)
4. On ██████████ the Department sent an Advance Negative Action Notice to

Appellant indicating that her HHS will be terminated effective ██████████ as she is married and her husband is considered a responsible relative. (Exhibit A.6)

5. On ██████████ Appellant filed a Hearing with Michigan Administrative Hearing System. (Exhibit 1)
6. There is no evidence of record that Appellant's spouse meets the definition of "unavailable".

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, Appellant disputes the Department's evidence. However, Appellant has offered no evidence in support of her contention that her spouse does not live with her. Federal and state law requires that all files of individuals who are recipients of federal programs contain correct and necessary verification(s) to establish eligibility. The burden is on the recipient.

Unrefuted evidence herein is that Appellant is married. Moreover, Appellant represented to the Department on the day of the negative action that she was enjoying residing with her spouse. Appellant did not reconcile her subsequent claim that her spouse does not reside with the statement made on ██████████. Nor has Appellant submitted documentary verification that her spouse resides elsewhere. The state of Michigan can be subject to strict financial penalties for failure of a recipient's file to contain necessary and adequate verification. None is shown here. Appellant's spouse is a "responsible relative" as defined under federal and state law.

Under ASM 120, Appellant has no eligibility for HHS as her spouse is considered to be a responsible relative. 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.

[REDACTED]
Docket No. 2014-20748 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 terminated Appellant's HHS case.

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: March 31, 2014

Date Mailed: April 1, 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.