

**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.** 2014-21405 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 ██████████. The Appellant and the Appellant's son ██████████, Provider/Representative appeared on the Appellant's behalf. At the onset of the hearing, the Appellant indicated she wanted her son to represent her during the hearing. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), appeared as a witness for the Department.

**ISSUE**

Did the Department properly close 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. As of ██████████, the Appellant was receiving HHS. (Exhibit A, p. 18)
2. On ██████████, a redetermination home visit took place. The ASW found the Appellant to be mobile. (Exhibit A, p. 15; Testimony)
3. Department records show two advance negative action notices being sent to the Appellant on ██████████. (Exhibit A, p. 13)
4. On ██████████, the Department determined the Appellant did not need assistance with the ADL's of mobility and transferring. (Exhibit A, p. 15; Testimony)
5. On ██████████, the Department stopped the Appellant's HHS payments. (Exhibit A, p. 18)

6. On [REDACTED], the Department sent the Appellant an advance negative action notice. The notice indicated the Appellant's HHS was being stopped with an effective date of [REDACTED]. (Exhibit A, p. 9; Testimony)
7. On [REDACTED], the Michigan Administrative Hearings System received the Appellant's request for hearing. (Exhibit A, pp. 4, 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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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 (12-1-2013) addresses the issue of available services:

#### **Program Description**

Independent living services offer a range of payment and nonpayment related services to individuals who require advice or assistance to support effective functioning within their home or the household of another.

#### **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.

#### **Services not Covered by Home Help**

Home help services must **not** be approved for the following:

- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). A

responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

ASM 101, 12-1-2013, pp. 1, 2, 4, 5.

ASM 170 (5-1-2013) addresses the issue of case closures:

### **Notification of the Negative Action**

When home help services are terminated, suspended or reduced for **any** reason, a DHS-1212, Advance Negative Action Notice, must be generated in **ASCAP** and sent to the client advising of the negative action and explaining the reason for the action; see ASM 150, Notification of Eligibility to determine need for 10 business day notice of action.

ASM 170, 5-1-2013, pp. 1, 2.

ASM 150 (5-1-2013) addresses the issue of notification of eligibility determinations:

### **Written Notification of Disposition**

All notifications are documented under ASCAP contacts when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter includes an explanation of the procedures for requesting an administrative hearing.

### **Advance Negative Action Notice (DHS-1212)**

The DHS-1212, Advance Negative Action Notice, is used and generated on ASCAP when there is a reduction, suspension or termination of services. Appropriate notations must be entered in the comment section to explain the reason for the negative action.

- Reduced - decrease in payment.
- Suspended - payments stopped but case remains open.
- Terminated - case closure.

### **Negative Actions Requiring Ten Day Notice**

The effective date of the negative action is ten business days **after** the date the notice is mailed to the client. The effective date must be entered on the negative action notice.

### **Negative Actions Not Requiring Ten Day Notice**

The following situations **do not** require the ten business day notice on negative actions:

- The department has factual confirmation of the death of the client (negative action notice must be mailed to the guardian or individual acting on the client's behalf) or death of the service provider.

**Note:** Cases should remain open until all appropriate payments have been issued.

- The department receives a verbal or written statement from the client, stating they no longer want or require services, or that they want services reduced.

**Note:** This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

- The department receives a verbal or written statement from the client that contains information requiring a negative action. The statement must acknowledge the client is aware the negative action is required and they understand the action will occur.

**Example:** A home help services client informs the specialist that they are engaged and will be married on a specific date. They also acknowledge that their new spouse will be responsible for meeting their personal care needs and they will no longer qualify for home help services.

**Note:** This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

ASM 150, 5-1-2013, pp. 1-4.

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In this case, the Department alleges the Appellant's HHS case was set to close on [REDACTED]. The evidence submitted by the Department however shows no evidence of HHS benefits being issued in the month of [REDACTED]. In fact, the evidence suggests the HHS case was closed on [REDACTED]. The Department failed to produce any testimony or documentation to explain this.

Additionally, the Department alleged the HHS case was set to close at the end of [REDACTED] as a result of a redetermination that revealed the Appellant no longer needed

assistance with the ADL's of mobility and transferring. Again the documentation provided shows no evidence of the Appellant ever receiving HHS benefits for these two ADL's. The evidence only corroborates the Appellant's argument that they did not receive HHS for mobility or transferring.

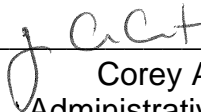
Therefore, based on the evidence presented, I find, the Department improperly suspended/closed the Appellant's HHS case and did not provide the Appellant with the proper notices. The Department failed to show why payments stopped on [REDACTED] and failed to show notice of the stoppage.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

1. The Department's decision is **REVERSED**.
2. Initiate a re-assessment of the Appellant's eligibility for HHS retroactive to [REDACTED] and issue retroactive benefits if otherwise eligible and qualified.

  
\_\_\_\_\_  
Corey A. Arendt  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

[REDACTED]  
cc: [REDACTED]

Date Signed: March 24, 2014

Date Mailed: March 24, 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.