

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2014-25191 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 husband (██████████) appeared on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant from the Home Help Services (HHS) program?

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 has received HHS since at least ██████████ of ██████████. (Exhibit A, p. 17)
2. On ██████████, the Appellant married ██████████. (Testimony)
3. As of ██████████, the Appellant and her husband were living together and the husband was acting as the Appellant's Provider. (Exhibit A, p. 15; Testimony)
4. Between ██████████ and ██████████, The ASW discovered the Appellant's marriage. (Exhibit A, p. 15; Testimony)
5. On ██████████, the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective

[REDACTED] because there was a responsible relative residing in the home with Appellant. (Exhibit A, pp. 6, 8-10; Testimony)

6. On [REDACTED], Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, p. 4)

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) 120, 11-1-2011, 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.

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)
12-1-2007, Page 5 of 6.*

Based upon my review of the facts and evidence presented at the hearing, I find that the Appellant was married to her Provider and the Provider was providing HHS to the Appellant at the time the Department took the action to close the Appellant's HHS case.

The Appellant in this case, did not dispute the marriage or her husband's abilities to provide for her care.

Therefore, I find the ASW properly considered the availability and ability of Appellant's husband to provide care for Appellant based on the best information available to him. Appellant's spouse meets the definition of a responsible relative. Appellant's HHS case was properly closed based on the information available to the ASW at the time of the advance negative action.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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

[REDACTED]
Docket No. 2014-25191 HHS
Decision and Order

cc:



Date Signed: March 6, 2014

Date Mailed: March 7, 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.