

**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. 2014-25804 HHS
Case No. ██████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 and Appellant's mother ██████████ appeared and testified on the Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), appeared and testified for the Department.

ISSUE

Did the Department properly deny the Appellant's Home Help Services (HHS) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On or about ██████████, Appellant requested HHS. (Exhibit A, p. 9)
2. On ██████████, the Department sent the Appellant a Medical Needs Form (54A) for the Appellant's physician to fill out. The paperwork was to be returned to the Department ██████████. (Exhibit A, pp. 8, 9; Testimony)
3. As of ██████████, the Department had not yet received a completed 54A. (Testimony)
4. On ██████████, the Department sent the Appellant a Adequate Negative Action Notice denying HHS due to the Appellant's failure to return the 54A. (Exhibit A, p. 8; Testimony).

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5. On [REDACTED], the Michigan Administrative Hearings System received Appellant's Request for Hearing. (Exhibit A, pp. 4-7).

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.

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. Individuals who wish to apply have to meet certain application requirements, including filing a timely application and medical needs form. The DHS Adult Services Manual sets forth these requirements. The pertinent policy sections are set forth below:

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. Completed DHS-54A or veterans administration medical forms are acceptable for individual treated by a VA physician; see ASM 115, Adult Service Requirements. [ASM 105, p. 2 of 3, 11-1- 2011].

ASM 105, 12-1-13, p. 3

REFERRAL INTAKE

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

Registration and Case Disposition

Documentation

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendars days to return the documentation to the local office.

ASM 110, 5-1-2013, p. 1

* * *

ADULT SERVICES REQUIREMENTS
FORM DHS-54A

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

....

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.


ASM 115, 5-1-2013, p. 1-3

As described above, ASM 105, ASM 110 and ASM 115 expressly provide that an applicant for HHS must return the documentation (a completed application and the DHS-54A medical needs form) to the local DHS office within 21 days. Furthermore, the ASW must have verification of medical need from a medical professional in order to authorize HHS.

In this case, the Department witnesses testified that they had never received a completed 54A as required.

The Appellant on the other hand argues that a 54A was submitted by his doctor's office on [REDACTED]. The Appellant bases his argument on a verbal conversation that he had with his doctor's office and a handwritten note found atop a 54A. The party that was alleged to have turned in the documentation did not appear and did not offer testimony. Therefore, I find the Appellant's statements to be both hearsay and self-serving. Based upon these facts, I find that more likely than not, a 54A was never submitted to the Department as required.

The above policies are clear in this case and therefore I find the Department properly denied the request for HHS based on the information available at that time the decision was made, as no completed 54A had been received by the local DHS office and no medical provider had certified that the Appellant had a medical need for personal assistance services.


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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department properly denied Appellant's application for HHS.

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

cc:





Date Signed: March 14, 2014

Date Mailed: March 14, 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.