

**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. 2014-31579 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 ██████████. Appearing on behalf of the Appellant was ██████████ (Representative). ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) and ██████████ Home Help Program Specialist (HHPS) appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services (HHS) hourly rate?

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 ██████████, the Department made changes to the Agency Provider and Individual Provider hourly rates. The new individual hourly rate for the Appellant's county (Kalamazoo) was \$█████ an hour. At the time, the Appellant was receiving \$█████ an hour. (Exhibit A, pp. 22-25; Testimony).
2. From ██████████ through ██████████, the Appellant received \$█████ an hour. (Exhibit A, p. 7)
3. In or around ██████████, the Appellant transitioned to a new non-agency provider. The Department continued to pay the new provider at the \$█████ an hour rate. (Exhibit A, p. 14; Testimony)
4. On ██████████, the Department sent the Appellant an Advance Negative Action Notice. The notice indicated the appellant's hourly rate was being reduced from \$█████ an hour to \$█████ an hour beginning ██████████. (Exhibit A, pp. 7-11; Testimony)

5. On ██████████, MAHS received from the Appellant a request for hearing. (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) 101, 11-1-11, addresses HHS payments:

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.

ASM 101, 12-1-2013, p.1.

ASM 140, addresses HHS payment authorizations:

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the Payments module of the ASCAP system.

Home help payments CANNOT exceed established maximum levels. All payments to the client are included within the maximum level, even if the client has more than one provider.

Each local DHS office has an established individual home help provider rate. Specialists MUST NOT authorize above or below the established rate.

ASM 140, 5-1-2013, pp. 1, 2.

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ASM 135, addresses Home Help Providers:

Cases with hourly rates above the established county rate must be substantiated by an approval letter (DCH-1785) from the Michigan Department of Community Health. If there is NOT an approval from MDCH, the hourly rate must be lowered to the established rate of the county.

ASM 135, 12-1-2013, p. 8.

ASM 138, addresses County Rates:

Effective November 1, 2009, the hourly Individual Provider rate for Kalamazoo County is \$8 an hour.

ASM 138, 5-1-2013, pp. 1, 3.

* * *

The ASW testified she reduced the hourly individual provider rate based upon a policy change that went into effect on November 1, 2009 after determining the error when the Appellant's provider was changed in ██████████.

The Appellant's Representative argued the Appellant should be grandfathered into the old rate and shouldn't have to reduce the payments to the provider at this time. The Appellant's Representative however failed to reference any authority or policy that would indicate the Appellant's hourly rate should be grandfathered in.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence, that the hourly reduction was improper. Accordingly, I find evidence to affirm the Department's actions in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined the Appellant's HHS hourly provider rate.

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

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cc:



Date Signed: April 21, 2014

Date Mailed: April 21, 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 March 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.