

**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. 2014-34207 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. ██████████, Appellant's son and caregiver, appeared as a witness.

██████████, Appeals Review Office, appeared on behalf of the Department. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, (ASS) appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce Appellant's 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 female SSI beneficiary, and recipient of the Medicaid program.
2. On ██████████ the Department conducted an in-home assessment for HHS pursuant to a referral. Appellant's diagnosis by physician report is liver cancer; by self-report, arthritis, confusion, hernia. (Exhibit A.15)
3. Appellant's spouse lives in the home and under policy, must be counted as available for assistance depending on his employment commitment(s). The Department opened a HHS case for 7 days per week at \$ ██████████ per month awaiting Appellant's spouse's verification of employment.

4. Verification of employment subsequently received shows that Appellant spouse works 5 days per week, 7 a.m. to 5 p.m.
5. On ██████████ the Department issued notice to reduce the HHS to 5 days per week consistent with the Verification of Employment, to \$██████████ per month. The Department removed all IADLs; ADLs were reduced to 5 days weekly. (Exhibit A.7)
6. On ██████████ Appellant filed a Hearing Request with the Michigan Administrative Hearing System. (Exhibit A.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.

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, 12-1-2013, addresses responsible relatives:

Responsible Relatives:

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

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 disability 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*

Under ASM 120, Appellant has no eligibility for HHS as his spouse is considered to be a responsible relative unless the spouse is unavailable or unable to provide care due to a disability.

The facts herein indicate that Appellant's spouse is unavailable 5 days per week as "unavailable" is defined under federal and state law. Under the above cited authority, there is no eligibility for IADLs. As to ADLs, ADLs are allowed 5 days per week when Appellant spouse is unavailable, and not for the 2 days that Appellant spouse is available.

After a careful review of the credible and substantial evidence, this ALJ finds that the Department correctly reduced Appellant's HHS case under ASM 120, and the 'responsible relative' policy. As such, the action must be upheld.

[REDACTED]
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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department correctly reduced Appellant's HHS services due to responsible relative policy.

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

JS/ [REDACTED]

cc: [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

***** 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.