

**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.** 2014-34211 HHS

██████████

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Appellant.

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**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████ Appeals Review Officer of the Department of Community Health, represented the Department of Community Health. ██████████ ██████████ Adult Services Worker (ASW) from ██████████ County DHS testified for the Department. ██████████, Adult Services Supervisor was present but did not testify.

**ISSUE**

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

**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 ██████████) Medicaid beneficiary who completed an Adult Services Application on ██████████ (Exhibit A, pp. 7-8 and testimony).
2. On ██████████ completed a DHS 54A Medical needs form certifying the Appellant need for personal care including bathing, dressing, mobility, meal preparation, shopping, laundry, and housework. (Exhibit A, p. 5).
3. On ██████████, ASW ██████████ attempted a home with the Appellant, however the Appellant called and left a message that she had a GYN appointment and would not be home. ASW noted this was a second referral and at her first home visit in ██████████ the Appellant advised she was married, but her husband had moved out at the beginning of the month, and at that time the ASW advised the Appellant she would have to submit proof with a driver's license, rent receipt, or utility bill showing the husband's new address. (Exhibit A, p. 19 and testimony).

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4. On ██████████ the ASW did a ██████████ clearance and determined that the husband ██████████ was using the Appellant's address as his mailing address. (Exhibit A, p. 19 and testimony).
5. On ██████████, the Department sent Appellant written notice that her request for HHS was denied effective ██████████. The notice stated that an enclosed medical needs form had to be completed for her spouse by his primary care physician and returned to DHS by ██████████. (Exhibit A, pp. 9-12).
6. On ██████████ the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (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.

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.

Here, Appellant's application for HHS was denied on the basis that Appellant's husband is a responsible relative and it had not been shown that he that he was unable and/or unavailable to care for her. Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") addressed responsible relatives at the time of the action in this case:

***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 (ADL) 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. [ASM 120, p. 6 of 7].

Here, the ASW properly considered the availability and ability of the Appellant's husband to provide care for Appellant. Appellant's husband meets the definition of a responsible relative. Under Department policy, HHS for the Appellant could only be authorized for those services or times which the responsible relative is unavailable or unable to provide care.

██████████ stated on ██████████, she attempted a home with the Appellant, however the Appellant called and left a message that she had a GYN appointment and would not be home. ASW noted this was a second referral and at her first home visit in ██████████ the Appellant advised she was married, but her husband had moved out at the beginning of the month. At that time, the ASW advised the Appellant she would have to submit proof with a driver's license, rent receipt, or utility bill showing the husband's new address. The ASW stated that the Appellant never offered her proof that her husband was residing at another location. Appellant also never claimed that her husband was unable to care for her.

██████████ referenced the definitions for "responsible relative" and also for "unavailable" quoted above. ██████████ stated that according to the definition of unavailable, the fact that the husband might be living elsewhere did not necessarily make him unavailable to provide care for the Appellant.

Appellant testified that she told ██████████ that she was married, but was separated from her husband as she put him out. When advised that she needed to get proof that her husband resided elsewhere, Appellant said she told the ASW she didn't know where he was. After the Appellant found out where her husband was she took him the medical needs form to fill out, but he tore it up. Appellant said she doesn't know what to do. She knows she needs help, because he has chronic arthritis. She needs help dressing herself. Appellant said her husband is no longer with her and they will soon be legally separated. When asked, Appellant said she told her Medicaid worker and her Social

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Security worker that her husband was no longer living with her, but it was probably after she got the Negative Action Notice with the medical needs form.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying her HHS. Here, given the above evidence and the information available to the Department at the time it made its decision, Appellant failed to meet her burden of proof and the Department's decision must be affirmed.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.

*William D Bond*

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William D. Bond  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [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.