

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. 2014-34228 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 appeared and offered testimony on her own behalf. The Appellant was represented by her son ██████████. ██████████, Appeals Review Officer, represented the Department. ██████████ Adult Services Supervisor and ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department deny the 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. The Appellant in this matter was a new referral. (Testimony)
2. On ██████████, the ASW conducted an assessment. During the assessment, the Petitioner indicated she no longer lived with her husband who was also disabled. The ASW asked to see the personal identification cards of the Appellant and her husband (██████████). Both identification cards indicated the same home address. Based upon the assessment, the ASW determined the Appellant shared a home with her husband. (Exhibit A, p. 11; Testimony)
3. After the assessment on ██████████, ██████████ had his address changed on his personal identification card.

4. On ██████████, the Department sent the Appellant an Adequate Negative Action letter. The letter indicated the Appellant was currently living with her spouse and the spouse was responsible for the Appellant's care and therefore the Appellant was not eligible for HHS. (Exhibit A, pp. 7-10; Testimony)
5. At no point in time did the ASW offer the Appellant an opportunity to show that her spouse was unable and unavailable to provide for her. (Testimony)
6. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit A, pp. 3-6)

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, 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 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.

*Adult Services Manual (ASM) 120
December 1, 2013, p. 6*

The ASW testified his normal operating procedure is to verify the people living in the home and determine the ability and availability of a spouse with a 54A. The ASW would issue a 54A to be completed and returned.

In this case, the ASW testified he did not provide a 54A to the Appellant as there was a disagreement as to whether or not the spouse was living in the home.

I do not understand the ASW's argument. The final determination is for the ASW not the Appellant. Once the ASW determined the Appellant shared a home with her spouse, the ASW then had to determine whether or not the spouse was able and available to provide services. This was not done.

Based upon my review of the facts and evidence presented at the hearing, I find that the Department failed in appropriately determining whether or not the Appellant was eligible for HHS. Although the Department determined the Appellant was living with her spouse, the Department failed to appropriately determine the spouse's ability to provide services to the Appellant.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

- The Department's decision is REVERSED.
- The Department is ordered to redetermine the Appellant's eligibility for HHS services beginning with the date of the referral and issue benefits if otherwise eligible and qualified.

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

CAA [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.