

**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. 2014-35526 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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on her own behalf. Appellant's witnesses were her mother, ██████████ and her daughter, ██████████. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), appeared as a witness 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 applied for the HHS program. (Exhibit A, p 11) Appellant is a ██████ year old Medicaid beneficiary diagnosed with kidney transplant and scleroderma. (Exhibit B, p 3; Testimony)
2. On ██████████, Appellant's doctor completed a DHS-54A Medical Needs form indicating that Appellant needed assistance with the Instrumental Daily Activities (IADL's) of laundry and housework. (Exhibit B, p 3; Testimony)
3. Appellant lives with her two children, ages ██████ and ██████. (Exhibit A, pp 13-14; Testimony)

4. On ██████████, the Department's ASW made a home visit to conduct an initial assessment. At the assessment, the ASW reminded Appellant that her previous HHS case was closed because she was married and her spouse was residing in the home. The ASW informed Appellant that she would have to provide proof that she was either separated or divorced and that her husband no longer resided with her. (Exhibit A, p 13; Testimony)
5. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. (Adult Services Manual (ASM) 120, 12-1-2013, Page 6 of 7)
6. In checking with the local courts, the ASW discovered that Appellant's divorce case had been dismissed for lack of progress. (Exhibit B, p 2; Testimony)
7. On ██████████, the Department sent an Adequate Negative Action Notice to Appellant indicating that her HHS application was denied because she was still married and had not provided evidence that there was not a responsible relative residing in the home with Appellant. (Exhibit A, pp 5-9)
8. Prior to the hearing, Appellant did provide the ASW with a copy of her husband's Michigan Identification Card, which shows an address different from that of Appellant. However, the ASW noted that the Identification Card had expired in ██████████, so it could not stand as proof of Appellant's husband's current address or residence.
9. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. (Exhibit 1)

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 (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 and 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
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The Department's ASW testified that on ██████████, she made a home visit to conduct an initial assessment. At the assessment, the ASW reminded Appellant that her previous HHS case was closed because she was married and her spouse was residing in the home. The ASW testified that she informed Appellant that she would

need to provide proof that she was either separated or divorced and that her husband no longer resided with her. The ASW indicated that she then checked with the local courts and discovered that Appellant's divorce case had been dismissed for lack of progress. Based on the fact that Appellant could not provide proof that she was separated or divorced, and that her husband no longer lived with her, the ASW indicated that on ██████████, she sent an Adequate Negative Action Notice to Appellant indicating that her HHS application was denied because she was still married and had not provided evidence that there was not a responsible relative residing in the home with her. The ASW did indicate that prior to the hearing, Appellant provided the ASW with a copy of her husband's Michigan Identification Card, which shows an address different from that of Appellant. However, the ASW noted that the Identification Card had expired in ██████████, so it could not stand as proof of Appellant's husband's address.

Appellant testified that her husband no longer lives with her as he moved out in ██████████. Appellant indicated that she lives only with her two children, ages ██████████ and ██████████. Appellant testified that she did start divorce proceedings, but because she did not have transportation to the court house, the case was eventually dismissed. Appellant testified that she needs help with laundry and housework because she has scleroderma, a condition that prevents her from fully opening her hands.

As indicated above, the Adult Services Manual defines a responsible relative as a person's spouse or a parent of an unmarried child under age ██████████. Appellant's spouse meets the definition of a responsible relative. Under Department policy, HHS for Appellant could only be authorized for those services or times that the responsible relative is unavailable or unable to provide services. Here, Appellant claimed that her husband had moved out of the home, but she could not provide up to date information that would allow the ASW to verify her husband's residence. Appellant's HHS application was properly denied based on the information available to the ASW at the time of the assessment.

Furthermore, Appellant was also informed that even if she could prove that her husband no longer resided with her, HHS would still be denied because Appellant's doctor only certified that Appellant needs assistance with the IADL's of laundry and housework. Policy also requires that a person must require hands on assistance with at least one Activity of Daily Living (ADL) in order to be eligible for HHS.

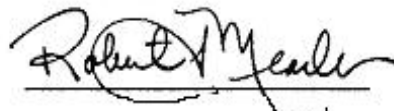
[REDACTED]
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DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

RJM/ [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.