

**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.** 2014-35595 HHS

██████████  
Appellant.  
\_\_\_\_\_ /

**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 initially for the hearing, but dropped off the call and then called back and gave testimony on his own behalf. ██████████ Appeals Review Officer of the Department of Community Health represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from ██████████ testified for the Department.

**ISSUE**

Did the Department properly terminate Appellant's 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 (DOB: ██████████) Medicaid beneficiary who was receiving HHS. (Exhibit A, pp. 2, 16-17 and testimony).
2. On ██████████, ASW ██████████ completed a home visit with the Appellant for an annual review. During the home visit the Appellant mentioned that he was waiting for his wife because he had an appointment to go to. The ASW then directly asked the Appellant if he was married and the Appellant responded "yes". (Exhibit A, p. 13 and testimony).
3. On ██████████, the ASW determined that the Appellant was married on ██████████. Bridges showed Appellant and his wife ██████████ were both active at Appellant's current address ██████████ and SOS records showed Appellant's wife had a valid driver's license with the ██████████ address. (Exhibit A, p. 13 and testimony).

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4. On ██████████, the ASW determined that when the Appellant's referral was received on ██████████ he indicated that he was single. (Exhibit A, p. 14 and testimony).
5. On ██████████, the Department sent Appellant written notice that his HHS was being terminated effective ██████████. The notice stated that was being terminated because his spouse was a responsible relative who was responsible for providing him care. (Exhibit A, pp. 6-8).
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Exhibit A, p. 5).

**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 HHS was terminated on the basis that Appellant's wife is a responsible relative and it had not been shown that she was unable and/or unavailable to care for him. 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 wife to provide care for Appellant. Appellant's wife 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. Appellant provided no documentation to show that his wife was either unavailable or unable to provide care for him.

██████████ stated on ██████████, the Appellant's ASW, completed a home visit with the Appellant for an annual review. During the home visit the Appellant mentioned that he was waiting for his wife because he had an appointment to go to. The ASW then directly asked the Appellant if he was married and the Appellant responded "yes". ██████████ stated on ██████████ determined that the Appellant was married on ██████████. Bridges showed Appellant and his wife ██████████ were both active at Appellant's current address ██████████, and SOS records showed Appellant's wife had a valid driver's license with the ██████████ address. ██████████ stated on ██████████ stated determined that when the Appellant's referral was received on ██████████, he indicated that he was single. Thereafter, on ██████████, the Department sent Appellant written notice that his HHS was being terminated effective ██████████. The notice stated that was being terminated because his spouse was a responsible relative who was responsible for providing him care.

Appellant testified that he is married, but indicated he was not asked this when he applied for HHS. He testified his wife lives at another address, but has not submitted any documentation to DHS to prove she lives at another address. Appellant said he was shot about a year ago, and needed help as he was unable to do things for himself. He said his wife was working a lot and could not provide care for him. Appellant admitted he did not provide any written documentation to DHS concerning where his wife works, or the hours she works to prove she is unable to provide his care.

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Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating his HHS. Here, given the above evidence and the information available to the Department at the time it made its decision, Appellant failed to meet his 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 terminated Appellant's 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.