

**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. 2014-35980 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's daughter and care provider, appeared and testified on Appellant's behalf. ██████████, Appellant's daughter-in-law, also testified as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, testified as witnesses 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 an ██████ year-old Medicaid beneficiary who has been diagnosed with dementia; debility; muscle weakness; hypertension; and ulceration. Appellant also broke a hip in ██████████ (Respondent's Exhibit A, page 10).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 7).
3. At that time, and all times relevant to this action, Appellant's Medicaid scope of coverage was "2C" and he had a Medicaid deductible/spend-down of ██████████ per month. (Respondent's Exhibit A, page 8).

4. On ██████████, ASW ██████████ conducted a home visit and assessment with Appellant and his representative. (Respondent's Exhibit A, page 16).
5. During that assessment, ASW ██████████ determined that HHS should be authorized in the amount of ██████████ hours and ██████████ minutes per month, with a total monthly care cost of ██████████ per month. (Respondent's Exhibit A, page 18; Testimony of ASW ██████████).
6. ASW ██████████ also noted the existence of the Medicaid deductible/spend-down and, because the amount of HHS needed was greater than that deductible/spend-down, discussed the Medicaid Personal Care Option with Appellant. (Testimony of Appellant's representative; Testimony of ██████████; Testimony of ASW ██████████).
7. In response, Appellant and his representative indicated that they were not interested in the Medicaid Personal Care Option at that time and that they would instead be challenging or meeting the deductible/spend-down. (Testimony of Appellant's representative; Testimony of ██████████ Testimony of ASW ██████████).
8. On ██████████, Appellant's HHS case was opened, with an effective start date of ██████████ (Respondent's Exhibit A, page 7).
9. However, Appellant never met his deductible/spend-down in any month following his case being opened and no HHS payments were ever issued. (Respondent's Exhibit A, page 8; Testimony of ASW ██████████).
10. On ██████████, the Department sent Appellant written notice that his HHS case would be closed and any services terminated on ██████████ because the Department cannot keep a case open without active Medicaid and Appellant has never met his deductible/spend-down. (Respondent's Exhibit A, pages 5-6).
11. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Respondent's Exhibit A, pages 4-6).

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.

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) 105 (12-1-2013) addresses the Eligibility Criteria for HHS and, regarding that criteria, the manual states in part:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Medicaid/Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in ASCAP for active services cases.

Medicaid Personal Care Option

Clients in need of home help personal care services may become eligible for MA under the Medicaid personal care option.

Discuss this option with the client and coordinate implementation with the eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is **more** than the MA excess income amount.

If **all** the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP.

Use the DHS-1210, Services Approval Notice to notify the client of home help services approval when MA eligibility is met through this option. The notice must inform the client that the home help payment will be affected by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option cannot continue if the cost of personal care becomes equal to or less than the MA excess income amount.

Note: See Bridges Eligibility Manual (BEM) 545, Exhibit II, regarding the Medicaid Personal Care Option.

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Here, no HHS payments were ever issued and the Department eventually terminated Appellant's HHS pursuant to the above policy. Specifically, the Department found that Appellant's scope of coverage remained at "2C" and his Medicaid remained inactive at all times relevant to this matter because of Appellant's unmet Medicaid monthly deductible/spend-down. ASW ████████ also testified that she discussed the Medicaid Personal Care Option with Appellant and his representative prior to terminating services, but they were not interested in that option.

In response, Appellant's witnesses do not dispute the existence of the unmet deductible/spend-down and they confirmed that they and Appellant are not interested in the Medicaid Personal Care Option. Appellant's witnesses also testified that they have submitted numerous medical bills to Appellant's Medicaid Eligibility Worker and that Appellant should have been able to meet his deductible/spend-down each month.

However, as discussed during the telephone hearing, this Administrative Law Judge does not have jurisdiction over Medicaid determinations or calculations regarding spend-downs. DHS has jurisdiction over eligibility issues, not DCH, and the ASW in this case must rely on the determinations made at DHS. Appellant has been advised to file a hearing request in the appropriate forum so that a separate hearing can be scheduled to address his concerns with DHS.

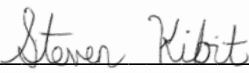
With respect to the decision at issue here, the undisputed evidence establishes that the Appellant has a monthly deductible/spend-down; he has never met that deductible/spend-down since his case has been open; and he is not interested in the Medicaid Personal Care Option. Based on that evidence, the termination of his HHS case was appropriate.

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**.



Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

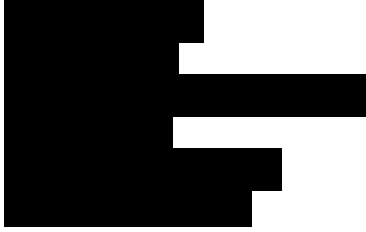
Date Signed: ██████████

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***** 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.