

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2014-4030 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant appeared and offered testimony. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████ and ██████████, Adult Services Worker (ASW) as well as ██████████ Adult Services Manager (ASM) appeared as witnesses for the Department.

ISSUE

Did the Department properly deny the Appellant's ██████████ application 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. On ██████████, the Appellant submitted to the Department an application (DHS-390) for HHS. (Exhibit A, pp. 7, 8; Testimony)
2. On ██████████, the Department visited the Appellant and conducted an in home assessment. (Testimony)
3. On ██████████, the Appellant telephoned the Department and identified a provider. (Exhibit A, pp. 17, 18)
4. On ██████████, the Appellant sent the Department a handwritten letter. The letter inquired about the HHS program. (Exhibit A, p. 5; Testimony)
5. On ██████████ the Department unilaterally "withdrew" the Appellant's application for HHS. (Exhibit A, p. 16; Testimony)

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6. At no point in time did the Department issue the Appellant a decision notice regarding the [REDACTED] application for HHS.
7. On or around [REDACTED], the Appellant submitted an application for HHS. (Exhibit A, p. 11; Testimony)
8. On [REDACTED], the Appellant sent the Department a handwritten letter withdrawing the [REDACTED] application for HHS and inquiring about the status of the [REDACTED] HHS application. (Exhibit A, p. 19; Testimony)
9. On [REDACTED], the Department sent the Appellant an Adequate Action Notice denying the Appellant's [REDACTED] HHS application. (Exhibit A, pp. 9-12)
10. On [REDACTED], the Appellant requested a hearing regarding the [REDACTED] HHS application. (Exhibit 1, p. 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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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 150 (11-1-2011) (hereinafter "ASM 101") addressed the issue of notification of eligibility determinations:

Introduction

Individuals who submit an application (DHS-390) for home help services or adult community placement **must** be given written notification of approval or denial for services. A written notice **must** be sent within the 45 day standard of promptness.

Written Notification of Disposition

All notifications are documented under ASCAP contacts when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

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- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter includes an explanation of the procedures for requesting an administrative hearing.

Adequate negative Action Notice (DHS-1212A)

The DHS-1212A, Adequate Negative Action Notice, is used and generated on ASCAP when home help services and adult community placement services cases have been denied. Appropriate notations **must** be entered in the comment section explaining the reason for the denial.

Adequate Negative Action Notices **do not** require a 10 business day notice to the client.

It was undisputed that the Appellant applied for HHS on [REDACTED]. The Department also acknowledged they unilaterally “withdrew” the application on [REDACTED]. The Department argued policy allows for the Department to unilaterally “withdraw” an application for HHS without providing notice to a Client where they lose contact with the Client. The Department was unable to identify the applicable policy and I was unable to find it.

Interestingly enough, the Appellant argues she was in contact with the Department and had requested updates regarding her application numerous times. Whether this is true or not, it doesn’t really matter.

ASM 150 specifically covers applications for HHS and the notice as well as standard of promptness that is to accompany each and every application.

ASM 150 requires that ALL applications for assistance be accompanied by written notification of either an approval or denial within 45 days of the application being made.

In this case, the Department acknowledges there was never any notice provided to the Appellant and that the negative action taken (withdrawal) occurred well after 45 days from the date of application.

Therefore, based on the evidence presented, I find, the Department improperly “withdrew” the Claimant’s application as policy requires an approval or denial letter to be issued within 45 days of the application.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly “withdrew” the Appellant’s HHS application.

IT IS THEREFORE ORDERED THAT:

1. The Department’s decision is **REVERSED**.
2. The Department is ordered to reprocess the [REDACTED] HHS application and issue a corresponding approval or denial notice.

/s/

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

[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.