

**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. 14-017543 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 Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████ Appellant did not appear to testify at the hearing. Appellant's son and Authorized Hearing Representative ██████████ appeared and testified on Appellant's behalf. ██████████ Appeals Review Officer; ██████████, Adult Services Supervisor; and ██████████, Independent Living Specialist appeared to testify on behalf of the Michigan Department of Community Health (MDCH or the Department).

ISSUE

Did the Department properly propose to suspend Appellant's Home Help Services (HHS) payments due to a failure to submit provider logs in a timely manner?

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 Medicaid beneficiary who has been receiving HHS through the Department at all times relevant to this matter.
2. On ██████████, an Advance Negative Action Notice was mailed to Appellant, informing Appellant that no further HHS payments can be authorized until past due provider logs are returned.

3. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing, protesting the proposed suspension of HHS payments.

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 are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities **must** be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

Adult Services Manual (ASM) 120

The provider **must** keep a log of the services provided on the DHS-721, Personal Care Services Provider Log and submit it on a quarterly basis. The log must be signed by both the provider and client or the client's representative to verify that the services approved for payment were delivered. A separate log is required for each provider. The log must be received within 10 business days after the last service date on the log. Failure to do so will result in suspension of payment.

The adult services specialist must initial and date the log upon receipt to demonstrate review of the log. The log is required to be retained in the client's case record. Incomplete logs must be returned to the client/provider for completion.

Agency/business providers have the option of submitting invoices instead of the DHS-721, Provider Log. Each invoice **must** specify the following:

- The service(s) provided, and
- The date(s) of service.

ASM 135

In the instant case, the department representative testified on the record that he was not certain if the logs had been received by the department. No one from the department could testify as to what actually happened in this case.

Appellant's representative testified that he mailed the logs in to the department as is required by policy and that no payments have been suspended to date. This Administrative Law Judge determines that Appellant's witness is credible.

The department has not established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with department policy when it issued an Advance Negative Action Notice was mailed to Appellant, informing Appellant that no further HHS payments can be authorized until past due provider logs are returned. Because no payments have been suspended, the issue is moot.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department has not established by a preponderance of the evidence that Appellant failed to provide provider logs.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**. The Department is **ORDERED** to rescind any potential negative action for failure to return logs; and ensure that there has been no suspension of HHS payments.

Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

LYL/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.