

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

Rogers, Diaina,

Docket No.: 15-000890

Case No.: [REDACTED]

Appellant

_____ /

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

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 March 12, 2015, from Detroit, Michigan. Participants included the above-named Appellant. [REDACTED], Appellant's home provider, testified on behalf of Appellant. Participants on behalf of the Department of Community Health (DCH) included [REDACTED], specialist, [REDACTED], supervisor, and [REDACTED], appeals review officer.

ISSUE

The issue is whether DCH properly terminated Appellant's eligibility for Home Help Services due to Appellant not needing the required assistance with activities of daily living.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Appellant was an ongoing HHS recipient.
2. Appellant failed to certify a need for assistance with activities of daily living.
3. On [REDACTED], DCH mailed Appellant an Advance Negative Action Notice informing Appellant of a termination of HHS eligibility, effective 1/2015.

4. On [REDACTED], Appellant requested a hearing to dispute the termination of HHS eligibility.

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. DCH policies regulating the MA program are contained in the Adult Services Manual.

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.

Appellant requested a hearing to dispute a termination of HHS eligibility. It was not disputed that the termination was based on an assessment finding that Appellant required no assistance with completing ADLs.

DHS is to conduct a functional assessment to determine the client's ability to perform activities of daily living. ASM (12/2013), p. 2. Activities of Daily Living (ADL) include the following: eating, toileting, bathing, grooming, dressing, transferring, and mobility. *Id.* An individual must be assessed [as needing help] with at least one activity of daily living (ADL) in order to be eligible to receive home help services. ASM 101 (12/2013), p. 2.

Appellant is disabled, in part, due to a previous history including a 2010 kidney transplant, chronic obstructive pulmonary disorder, lumbar pain, diabetes, and hypertension.

Appellant's specialist testified that she performed a home-call and discussed Appellant's ongoing needs with Appellant. Appellant's specialist testified that she observed Appellant ambulating without any walking assistance device. Appellant's specialist testified that Appellant has not been hospitalized since 2010. Appellant's specialist testified her observations of and conversations with Appellant merited a finding that Appellant no longer required assistance with ADL completion.

Appellant and her home provider testified that Appellant requires ongoing assistance with several activities. The testimony was generally consistent with a need for ongoing services.

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Appellant's specialist testimony was very credible. Appellant's and her provider's testimony was also reasonably credible. Appellant's physician will be looked to as the best source of Appellant's needs.

DCH presented a Medical Needs form dated [REDACTED] (Exhibit 6). The form was completed by Appellant's primary care physician. The Medical Needs form contains a section which asks if a patient needs any help completing each of the above-listed ADLs. Appellant's physician noted that Appellant needed assistance with meal preparation, laundry, housework, and shopping. DCH does not consider those as ADLs. Appellant's physician did not note that Appellant required assistance with activities qualifying as ADLs.

Based on the presented evidence, it is found that Appellant has no need for assistance with ADLs. Accordingly, it is found that DCH properly terminated Appellant's HHS eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DCH properly terminated Appellant's HHS eligibility, effective 2/2015. The actions taken by DCH are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: 3/16/2015 3/16/2015

Date Mailed: 3/16/2015 3/16/2015

CG/hw

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cc:



****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.