

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████,
Appellant
_____ /

CASE INFORMATION

Docket No.: 15-001356-HHS
Case No.: ██████████
Appellant:
██████████
Respondent:
Department Community Health

HEARING INFORMATION

Hearing Date: March 26, 2015
Start Time: 03:00 PM
Location
In Person at Agency Office
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 26, 2015, from Detroit, Michigan. Participants included the above-named Appellant. ██████████, Appellant's spouse, testified on behalf of Appellant. Participants on behalf of the Department of Human Services (DHS) included ██████████, specialist, ██████████, supervisor, and David Harrison, appeals review officer.

ISSUE

The issue is whether DHS properly terminated Appellant's home help services (HHS) eligibility due to Appellant living with a spouse.

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. On an unspecified date in or near September 2014, Appellant's spouse returned to Appellant's household.

3. Appellant failed to report to DHS that Appellant's spouse returned to her household.
4. On ██████████, DHS performed an assessment at Appellant's home in which Appellant failed to report that her spouse was a household member.
5. On ██████████, DHS mailed an Adequate Negative Action Notice to Appellant informing Appellant of a termination in HHS eligibility, effective January 2015, due to Appellant having a spouse in her home.

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. DHS 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. DHS provided testimony that Appellant's eligibility was terminated after it was discovered that Appellant's spouse was in the home.

The adult services specialist must not authorize approval for tasks that can be completed by the responsible relative during the time they are available. ASM 101 (12/2013), p. 4. A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18. ASM 120 (12/2013), p. 6.

Appellant's DHS specialist testified that she went to Appellant's home on ██████████ for the purpose of completing a face-to-face assessment. Appellant's specialist testified that she asked Appellant if she lived with her spouse. Appellant's specialist testified that Appellant expressed offense at being asked about her husband and that she unequivocally denied having any contact with her spouse. Appellant's specialist testified that she checked Bridges (the DHS database) after Appellant's assessment and discovered that Appellant and her spouse were receiving ongoing food benefits as members of the same household. Appellant's specialist testified that she called Appellant to inquire again if Appellant's spouse lived with her and that Appellant hung up on her.

Appellant denied that she was evasive concerning her spouse being a household member. Appellant testified that her specialist "was nasty" and hung up on her and that she had to resort

to using a minute phone whenever she wanted to call her specialist (which implied that her specialist was screening calls from Appellant).

DHS also presented testimony that suspicion of Appellant's reported household members were heightened by Appellant's use of different names. It was not disputed that Appellant received HHS eligibility under a married name from a previous marriage. Appellant received food benefits using the last name of her current husband.

DHS also alleged that Appellant received food benefits in 2013 along with her spouse during a time that her spouse was not in her home. DHS presented a FAP- EDG Summary (Exhibits 1-2). The summary listed an eligibility begin date of June 13, 2013 with three active group members, Appellant, her spouse, and an adult grandchild. Appellant conceded that her spouse was not in the home since 2011. The FAP- EDG Summary tended to indicate that Appellant may have improperly received FAP benefits based on a budget which included her spouse who was not in the household as of June 2013. Appellant testified that she used different last names, but there was no intent of fraud.

Eventually, Appellant conceded to DHS that her spouse was in her home since September 2014. Thus, there is strong support for upholding the DHS termination of HHS eligibility. Appellant provided testimony that suggested the HHS termination may have been premature.

Activities of daily living may be approved when the responsible relative is unavailable or unable to provide these services. *Id.* Unable means the responsible person has disabilities of their own which prevent them from providing care. *Id.* These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form. *Id.*

Appellant and her spouse each testified that Appellant's spouse is disabled and that he is unable to assist his wife with ADLs. For purposes of this decision, Appellant's and her spouse's testimony will be accepted as accurate.

DHS could be ordered to assess whether Appellant's spouse's disability prevents him from providing Appellant with necessary assistance. Such an order hinges on when Appellant first informed DHS of her spouse's disability.

DHS testimony suggested that Appellant was consistently uncooperative through the date of HHS closure concerning reporting her household members. DHS testimony further indicated that if Appellant reported before the date of written notice that her spouse was disabled, then an assessment would have been done to determine if Appellant's spouse could assist her with ADLs.

Appellant did not testify about a specific date of reporting of her spouse's alleged disability (though she was never asked). It is known that Appellant's hearing request dated 2/6/15 stated that she still needed help with her daily needs even though her spouse was in the home. The request also stated that her spouse had various medical problems and that he needed a provider.

Based on presented evidence, it is more likely than not that Appellant only reported to DHS that her spouse was disabled only after DHS terminated her HHS eligibility. Because Appellant did not report the alleged disability until after case closure, DHS would have no reason to evaluate whether Appellant's spouse was a disabled individual before case closure. Accordingly, the DHS termination of Appellant's HHS eligibility was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Appellant's HHS eligibility, effective 1/2015, due to Appellant having a responsible relative in her home. The actions taken by DHHS are **AFFIRMED**.

Christian Gardocki

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

Date Signed: April 17, 2015

Date Mailed: April 17, 2015

CG/hw

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.