STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

[redacted],

Docket No. 15-002768 HHS
Case No. [redacted]

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.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. Appellant appeared and testified. [redacted] appeared as a witness on behalf of Appellant.

[redacted], Appeals Review Officer, represented the Department. Nancy Bruger, Adult Services Worker, (ASW) appeared as a witness for the Department.

ISSUE

Did the Department properly close the Appellant's Home Help Services ("HHS") case?

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 [redacted] year old female who is a beneficiary of the Medicaid and SSI programs.

2. Appellant's diagnoses include liver disease, asthma, Hepetitus C, and major depressive disorder. (Exhibit A.14).

3. Prior to the negative action herein, Appellant had a HHS case open for 36.24 hours, $[redacted] per month. (Exhibit A.18)

4. Appellant's medical eligibility is not at issue. (Exhibit A.18).

5. The last issuance of a HHS payment in Appellant's case was on [redacted]. (ASW Testimony). During and since that time, Appellant has been changing providers. (Exhibit A.16-17).

6. On [redacted] the ASW issued a Notice of Case Closure to Appellant for the following reason: “case is inactive and therefore will close.” (Exhibit A.10).

7. On [redacted] the Appellant’s Request for Hearing was received by the Michigan Administrative hearing System arguing that the case should not close due to medical necessity and that she has changed her providers a few times. (Exhibit A.6-8).

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.

The Adult Services Manual (ASM) addresses eligibility for Home Help Services:

Department policy requires Medicaid eligibility in order to receive HHS, and clients with a monthly spend-down are not eligible until they have met their spend-down obligation. (Adult Services Manual (ASM) 105, November 1, 2011, pages 1-2 of 3).

> **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.
>
> *Adult Services Manual (ASM) 105, 11-1-2011 pages 1-2 of 3*

ASM 170 contains policy on Case Closure. That item indicates that the HHS payments may be "terminated and closed" in a number of circumstances. Applicable to the case here, the Department cited: "The client no longer wishes to receive home help services." ASM 170, page 1 of 3, Effective [redacted].

At an administrative hearing, Appellant bears the burden of proof to establish eligibility. Here, unrefuted evidence is that there has no payment activity on Appellant's case pursuant to the ASW on or about [redacted]. Appellant states in the hearing request that there have been no payments since [redacted]. The actual date is not controlling as both time periods would indicate that the Department issued notice of closure after 3 months of inactivity.

Unrefuted evidence of record is that Appellant had a change in providers, and, hired a new provider. That new provider subsequently quit. As of the notice of case action, evidentially no provider had been enrolled as required by federal and state law to be eligible for HHS payments. Federal and state law prohibits the issuance of HHS Medicaid payments unless all eligibility criteria has been met. Moreover, each recipient file must contain necessary verification(s) of eligibility else the State of Michigan could be subject to significant financial penalties.

Appellant argued that she is medically eligible. However, there is no dispute in this case that she is medically eligible. Here, there was a case closure as there was not active provider enrolled with the State of Michigan necessary to meet eligibility criteria with regards to HHS providers. Appellant did not bring forth evidence to show that she has a provider enrolled as a Medicaid provider, and, a provider who meets the requirements of the HHS program so as be eligible for HHS payments.

The closure of the case here due to inactivity was correct and is thus, upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly closed Appellant's HHS case.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

JS[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.