STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-004716 HHS

[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.*, and upon a request for a hearing filed on Appellant's behalf.

After due notice, an in-person hearing was held on [redacted] Appellant's mother and legal guardian, appeared and testified on Appellant's behalf. Appellant and [redacted] were also present for Appellant. [redacted], Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). [redacted], Adult Services Worker, and [redacted], Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant's 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. Appellant is a [redacted] year-old Medicaid beneficiary who has been diagnosed with autism, mental impairment, and schizophrenia. (Exhibit A, page 10).

2. Appellant's mother/representative is his legal guardian. (Exhibit A, page 6).

3. On [redacted], the Department opened Appellant's HHS case and approved services. (Exhibit A, page 9).

4. Most recently, Appellant was approved for HHS in the amount of [redacted] hours and [redacted] minutes per month, with a total monthly care cost of [redacted] (Exhibit A, page 16).

5. Starting [redacted], Appellant's Medicaid scope of coverage changed to "2C" and he had a Medicaid deductible obligation/spend down of [redacted] per month. (Exhibit A, page 11).

6. Appellant's guardian appealed the change in the scope of coverage, but the Department's action was subsequently affirmed. (Testimony of Appellant's representative).

7. Since it was established, Appellant has never met the deductible/spend down in any month and his Medicaid has therefore remained inactive since [redacted] (Testimony of Appellant's representative; Testimony of [redacted].

8. On [redacted], the Department sent Appellant written notice that his HHS would be terminated on [redacted] because he does not have the right scope of coverage to qualify for the program. (Exhibit A, page 5).

9. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, pages 4-7).

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.

With respect to eligibility criteria for HHS, Adult Services Manual 105 (12-1-2013) provided in part:

> **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.
>
> **Note:** See Bridges Eligibility Manual (BEM) 545, Exhibit II, regarding the Medicaid Personal Care Option.
>
> *ASM 105, pages 1-2 of 4*

Here, pursuant to the above policy, the Department terminated Appellant's HHS on the basis that his Medicaid scope of coverage had been a "2C" since [redacted] and Appellant has never met his Medicaid deductible obligation in any month since that date, leaving his Medicaid inactive. Moreover, given the amounts of his deductible and the previously-approved HHS, the Medicaid Personal Care Option is not available to Appellant.

In response, Appellant's representative first testified that Appellant still needs assistance. However, Appellant's medical conditions and needs are not disputed and were not the basis for the termination. Instead, as discussed above, the Department terminated Appellant's HHS because he was no longer eligible for the services due to his inactive Medicaid and consistent failure to meet his deductible.

Appellant's representative also testified that the spend down itself is improper in this case and that, when she does try to meet it, Appellant's eligibility worker has failed to perform her duties correctly. However, as discussed during the hearing, this Administrative Law Judge does not have jurisdiction over Medicaid determinations or calculations regarding spend downs. Appellant has been advised to pursue her issues with her eligibility worker's supervisor and, if necessary, file another hearing request in the appropriate forum or a Recipient's Rights complaint. The Adult Services Supervisor at the hearing also stated that she would assist Appellant if she can.

With respect to the decision at issue here, however, the clear policy and undisputed evidence demonstrate that the termination was proper and that the Department's action must therefore be affirmed.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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

Steven Kibit
Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: [redacted]

Date Mailed: [redacted]

SK/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.