

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

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(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-005328 HHS
Case No. ██████████

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 initiated on ██████████, which by continued pursuant to an Order of Continuance to ██████████

Appellant appeared and testified. ██████████, daughter and caregiver, appeared as a witness on behalf of Appellant.

██████████, Appeals Review Office, appeared on behalf of the Department. ██████████ Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce Appellant's Home Help Services ("HHS") due to proration?

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 ██████ year old female beneficiary of Medicaid and the Home Help Services (HHS) program.
2. Appellant's HHS case was last certified on ██████████. (Exhibit A.13).
3. On ██████████ the ASW conducted an in-home review for Appellant's HHS case. Unrefuted evidence is that at that time, Appellant informed the Department that she had received mail at her home for an individual who does not reside at the home from DHS. The individual was a foster child

who once lived with her but had not lived with her since “200-2003”-13 years ago. Appellant has not had contact with that individual and did not know his whereabouts. (Testimony).

4. ASW notes from the ██████████ were not included in the Department’s evidentiary packet.
5. On ██████████ the Department issued an Advance Negative Action Notice reducing Appellant’s HHS to ██████████ due to proration stating: “time and task reduced as adult relative is receiving services at the home.” (Exhibit A.8-9). At that time, Appellant believed that the Department reference to an ‘adult relative’ must be her caregiver. Appellant subsequently submitted verification of her then caregiver’s residence, including a social security statement with the caregiver’s address. (Exhibit A; Testimony).
6. On ██████████ Appellant called the ASW regarding the reduction and was informed that the “relative” referenced in the negative action notice was Jujan Adams that the Department discovered was living with Appellant. Appellant reminded the Department that it was she-the Appellant- who reported to the Department that she had received mail for this individual at her home.
7. The DHS Bridges system indicates that a Jujan Adams applied for and began receiving FAP benefits on ██████████, and listed Appellant’s address as his address. (Exhibit A.16-17).
8. Eligibility for the FAP program requires verification of identify and address prior to case opening. (ASS Testimony).
9. Pursuant to a number of inquiries made by Appellant as to her HHS case, and entries made by the Department regarding contacts as to the Adams FAP case, the ASW made a number of entries indicating that until the FAP case is closed, and/or until Appellant verifies that he does not reside in the home, Appellant’s HHS grant will continue to be reduced due to a relative living with her. (Exhibits A. informed her on 1 ██████████, ██████████, 3/ ██████████. (Exhibits A.14-20; Testimony).
10. At no time did the Department inform Appellant as to how to verify that Adams was not living with her, or how to verify or obtain information regarding his address. or how Appellant could obtain verification requested by the Department. The Department did not issue a written verification notice.
11. At the initial hearing of ██████████ the Department was waiting for a response to an e-mail sent to the Adams FAP case worker regarding the verification the Department accepted when it opened the Adams’ FAP case. At the

administrative hearing, the parties agree to a Continuance to give the Department an opportunity to follow up with the FAP worker as to the address verification used by Adams when the DHS opened the FAP case, and if necessary to obtain an SOS or Lexis-Nexis inquiry.

12. At the ██████████ Continuance, Appellant testified that she attempted an SOS inquiry but was denied by the Secretary of State informing her that she did not have the authority.
13. At the ██████████ Continuance, the Department testified that an e-mail was issued to the FAP worker-██████████- on ██████████ and again on ██████████. No response was received. The Department witness testified that an SOS and/or Lexis-Nexis inquiry was not made because she “did not have time.” (Testimony). The Department argued that Appellant failed to report that Adams’ was living at her address until ██████████. (Testimony by Department).
14. Appellant does not have access to search SOS or the Lexis-Nexis data base systems.
15. The Department has access to search to make SOS inquiries with the Secretary of the State of Michigan, and to make inquiries on the LexisNexis data base that contains names, marriage licenses, addresses, e-mail addresses, phone numbers, voter registrations, vehicle registration information, drivers licenses, physician information, Michigan judgments/lien filings, potential relatives, and person associates.
16. The Department failed to submit verification used by the DHS to verify Appellant’s address or identify in his FAP case.

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.

Applicable policy and procedure states in part:

**PERSON
CENTERED
PLANNING**

The adult services specialist views each client as an individual with specific and unique circumstances, and will approach case planning holistically, from a person-centered, strength-based perspective.

Person-centered, strength-based case planning focuses on the following:

- Client as **decision-maker** in determining needs and case planning.
- Client **strengths and successes**, rather than problems.
- Client as their **own best resource**.
- Client **empowerment**.
- The adult services specialist's role includes **being an advocate** for the client. **As advocate, the specialist will:**
 - Assist the client to become a self-advocate.
 - Assist the client in securing necessary resources.
 - Inform the client of options and educate him/her on how to make the best possible use of available resources.
 - Promote services for clients in the least restrictive environment. Participate in community forums, town meetings, hearings, etc. for the purpose of information gathering and sharing.
 - Ensure that community programming balances client choice with safety and security.
 - Advocate for protection of the frail, disabled and elderly.
 - Promote employment counseling and training services for developmentally disabled persons to ensure **inclusion** in the range of career opportunities available in the community.

PARTNERSHIPS

Work cooperatively with other agencies to ensure effective coordination of services; see ASM 125, Coordination With Other Services. ASM 102

MISSION STATEMENT

The purpose of independent living services (ILS) is to provide a range of supportive and assistance related services to enable individuals of any age to live safely in the most independent setting of their choice.

The vision of independent living services is to:

Ensure client choice and personal dignity.
Ensure clients are safe and secure, as possible.
Encourage clients to function to the maximum degree of their capabilities.

To accomplish this vision, DHS will:

Act as resource brokers for clients.
Advocate for equal access to available resources.
Develop and maintain fully functioning partnerships that educate and effectively allocate limited resources on behalf of our clients. ASM 100

In this case, the issue here centers one of verification. The Department decreased Appellant's grant under the proration policy on the grounds that she had an adult living with her in the home. As noted in the Findings of Fact, Appellant herself self-disclosed at the in-home assessment of [REDACTED] that mail had been delivered to her home from the Department for a Jajuan-Adams-who did not reside in the home. The Department checked Bridges which showed a FAP case opened in Adams name in [REDACTED], and subsequently issued the negative action notice at issue here.

Appellant attempted to cooperate with the Department and submitted verification of her caregiver. However, when it was discovered that the 'adult' was a different individual, Appellant informed the Department that there was no one living with her, and that Adams was not a relative and that she did not know his whereabouts. Appellant was very cooperative. At one point the Appellant contacted the Secretary of State but was informed that she had no authority under which the SOS would release such information to her. However, the SOS does routinely release such information to the DHHS and the DHS.

The Department not only has the authority to obtain verification from the SOS, but also from the Lexis-Nexis data system that contains extensive data system on individuals. At the continuance, the Department failed to present evidence that it had made the inquiry for which the Continuance was granted. More importantly, the DHS had substantial and credible evidence to resolve this case in the Adams FAP file, as the Department stipulated that a FAP case cannot be open without such verification as required by state and federal law. The Continuance was specifically ordered to give the Department time to obtain this verification. However, at the Continuance the Department evidence is that the ES worker never responded, and that the Wayne County DHS informed the ASS that Appellant failed to disclose until ██████████. Unrefuted evidence is that Appellant disclosed this information on ██████████.

ASM 100 and 102 require the Department to assist individuals and to assist clients in obtaining resources. The Department has failed to comply with its mandates. Moreover, the Department failed to obtain the verification for which it had in its possession while requesting that Appellant obtain verification for which she could not. The Department has failed to meet its burden of going forward. The Department is reversed.

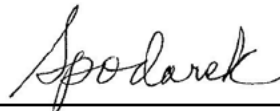
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's reduction of Appellant's HHS case was not supported by the evidence presented, and thus,

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**, and,

the Department is ordered to initiate the following: reinstate Appellant's case and payments to the level of benefits that Appellant was at prior the action herein, and issue any supplemental benefits to Appellant to which she may be entitled, if otherwise eligible.



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

JS [REDACTED]

cc: [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.