

**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:

██████████,

Appellant

Docket No. 15-005518 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 held on ██████████. Appellant appeared and testified. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Specialist Worker (ASW) and ██████████, Adult Services Supervisor appeared as witnesses for the Department.

State's Exhibit A pages 1-28 were admitted as evidence as were Appellant's Exhibits 1-2 without objection.

ISSUE

Did the Department properly cancel the 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 Medicaid beneficiary, born ██████████, who was receiving HHS.
2. Appellant has been diagnosed with bilateral wrist carpal tunnel syndrome and post trauma right knee injury. State's Exhibit A page 9.
3. In ██████████, Appellant was due for an annual assessment.
4. On ██████████, the Department caseworker sent Appellant a DHS 54-A Medical Needs Form which needed to be completed by Appellant's treating physician.
5. On ██████████, the Department caseworker completed the assessment for HHS.

6. On ██████████ the Department caseworker gave the Appellant's provider a second Medical Needs Form as she had not received the original one from Appellant.
7. On ██████████, the Department caseworker sent Appellant an Advanced Negative Action Notice letter that her her HHS would be terminated effective ██████████ because the required paperwork – Medical Needs Form (DHS-54-A), necessary to authorize services was not returned by the due date.
8. On ██████████, the case closed as the Department caseworker had not received the completed DHS 54- A Medical Needs Form from Appellant or her physician.
9. On ██████████, the Michigan Administrative Hearing System received a request for hearing for the Michigan Department of Health and Human Services to contest the Department's negative action.

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.

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

For case registration and disposition the department must:

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendars days to return the documentation to the local office.

Note: The introduction letter does **not** serve as adequate notification if home help services are denied. The specialist must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

The adult services specialist must determine eligibility within the 45 day standard of promptness which begins from the time the referral is received and entered on ASCAP. The referral date entered on ASCAP must be the date the referral was received into the local office. The computer system calculates the 45 days beginning the day after the referral date and counting 45 calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: A medical need form does not serve as an application for services. If the local office receives the DHS-54A, a referral must be entered on ASCAP for the date the form was received in the local office and an application sent to the individual requesting services.

After receiving the assigned case, the adult services specialist gathers information through an assessment, contacts, etc. to make a determination to open, deny or withdraw the referral; see ASM 115, Adult Services Requirements.

ASM 110, pages 1-2 5-1-2013, ASB 2013-003

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. The medical professional must hold one of the following professional licenses:

- Physician (M.D. or D.O.)
- Physician Assistant
- Nurse Practitioner
- Occupational Therapist.
- Physical therapist. ASM 105, page 3 4-4-2015, ASB 2015-003

The evidence on the record indicates that Appellant did provide a completed DHS 54A Medical Needs Form to the Department but the date stamp on the Medical Needs Form indicates that it was received by the Department on [REDACTED]. The Medical Needs Form was filled out by the doctor and signed on [REDACTED].

Appellant testified that the document was FAXED to the Department on [REDACTED] by her doctor. She called the Department on [REDACTED], but could not confirm that the FAXED document had been received. Appellant testified on the record that she then FAXED the document to the Department on [REDACTED]. Appellant provided a FAX transmittal confirmation dated [REDACTED]. This Administrative Law Judge finds Appellant's testimony to be credible in the instant case.

The Department caseworker stated that she did not receive a FAXED document on [REDACTED] or [REDACTED].

The Department has not established by the necessary competent, substantial and material evidence on the record that it was acting in compliance with Department policy when it denied Appellant's application for HHS based upon the fact that Appellant did not provide a properly completed Medical Needs Form. Appellant has established that she FAXED a document to the Department on [REDACTED], which was confirmed as delivered.

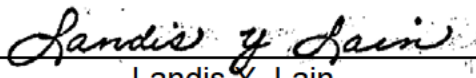
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department has not properly cancelled the Appellant's HHS application based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is REVERSED.

1. The Department is ORDERED to reinstate Appellant's Home Help Services to the date of closure, and make an assessment of Appellant's needs for HHS from [REDACTED];
2. If Appellant is otherwise eligible, pay to Appellant/Provider any benefits to which she was entitled from [REDACTED] forward.



Landis Y. Lain

Administrative Law Judge

for Nick Lyon, Director

Michigan Department of Health and Human Services

LYL [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.