

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

IN THE MATTER OF:

██████████
Appellant
_____ /

Docket No. 15-000943 HHS
Case No.: ██████████
Hearing Date: March 18, 2015
County: WAYNE (DCH)

CASE INFORMATION

Docket No.: 15-000943-HHS
Case No.: ██████████
Appellant:
██████████
Respondent:
Department of Community Health

HEARING INFORMATION

Hearing Date: March 18, 2015
Start Time: 10:30 AM
Location
In Person at Agency Office
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

HEARING DECISION

Following Appellant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three way hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Appellant included the Appellant and ██████████, a witness. Participants on behalf of the Department of Community Health (Department) included ██████████ Adult Services Supervisor, and ██████████, Appeal Review Officer, Department of Community Health.

ISSUE

Did the Department properly issue a Negative Action Notice suspending the provider payments due to failure to provide provider logs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 19, 2014 the Department issued the Appellant and Advance Negative Action Notice suspending services for Home Help Services (HHS) pending receipt of past due provider logs. The Action was effective January 8, 2015.
2. The Notice also contained blank provider log forms with the action notice.
3. The missing provider logs in question were for the third quarter, (July, August and September 2014). At the time of the hearing all completed logs had been received.
4. All the completed provider logs had been received in August 2014. All logs for the fourth quarter had also been received timely. Thus at the time of the hearing all completed logs had been received.
5. Notwithstanding the Advance Negative Action Notice issued December 19, 2014, the reason stated in the Notice, non receipt of logs, was not the reason that the Department suspended provider payments. The Department suspended payment because of a DHS HHS policy requirement that caseworker reviews are required twice yearly, and because the reviews were not performed the payments were suspended. The Department suggested that the suspensions were done so the caseworkers would have to complete the redetermination reviews.
6. The last payment to Appellant was made for November 2014. No further payments for January or February 2015 were made because the caseworker had not completed a case review in November 2014. No Negative Action Notice was sent to the Appellant; instead, all payments were stopped November 6, 2014 effective November 30, 2014. No further payments were made until the caseworker completed a face-to-face visit for that month.
7. The Department contended that the caseworker did not close the case but instead Central Office suspended payments.
8. The Appellant requested a hearing on January 20, 2015 protesting the Department's action.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Additionally, in this case the Department suspended payments without sending a Negative Action Notice regarding the true reason the payments stopped. The Appellant was scheduled for a home visit with her worker on November 19, 2014. The Appellant credibly testified that she was home sick all day and a note was left by the worker. Thereafter, the Appellant called the worker and advised she was available that day. There was no further evidence that the Department attempted to complete a home visit or that the caseworker attempted to do so on November 19, 2014. Based upon the evidence presented the Appellant provided proof that a home visit was not completed through no fault of her own. The Appellant also credibly testified that she never received notice of the home visit. As no Negative Action Notice was sent suspending payments due to failure to complete a home visit, there is no basis presented by the Department to suspend payments beginning December 2014 ongoing as all provider logs were received by the Department and the 2015 first quarter logs were not due.

Department policy requires face-to-face reviews and redeterminations every six months:

CASE REVIEWS

Independent living services (home help) cases must be reviewed every six months. A face-to-face contact is required with the client, in the home.

A face-to-face or phone contact must be made with the provider at six month review and redetermination to verify services are being furnished.

ASM 155 (5/1/13) p.1

However, Department Policy in ASM170 clearly requires the following when suspending or taking any other action:

When home help services are terminated, suspended or reduced for **any** reason, a DHS-1212, Advance Negative Action Notice, must be generated in **ASCAP** and sent to the client advising of the negative action and explaining the reason for the action; see ASM 150, Notification of Eligibility to determine need for 10 business day notice of action. ASM170 (5/1/13) p.2

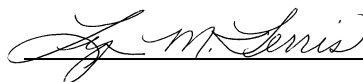
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it suspended provider payments due to failure to complete a home visit without issuing an Advance Negative Action Notice.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate provider payment to the Appellant for December 2014 ongoing.
2. The Department shall schedule and complete a home visit and assessment with the Appellant, if it has not already done so.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **4/9/2015**

Date Mailed: **4/9/2015**

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Decision and Order

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***** 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.