

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
Phone: (517) 335-3997; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant.

CASE INFORMATION

Docket No.: 15-002401-HHS

Case No.: ██████████

Appellant:

██████ ██████

Respondent:

Department Community Health

██████ ██████

HEARING INFORMATION

Hearing Date: April 09, 2015

Start Time: 02:00 PM

Location

In Person at Agency Office

Oakman Adult Services

3040 W. Grand Blvd., Suite L450

Detroit, MI 48202

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon Appellant's request for a hearing. After due notice, a telephone hearing was held on April 9, 2015, from Detroit, Michigan. ██████████ testified and appeared as Appellant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included ██████████, supervisor, and ██████████, Department of Community Health appeals review officer.

ISSUE

The issue is whether DHS properly suspended Appellant's home help services (HHS) eligibility due to a failure to submit 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. Appellant was an ongoing HHS recipient.

2. Appellant's HHS provider failed to submit provider logs to DHS for the 3rd and 4th quarters of 2014.
3. On ██████████, DHS mailed Appellant an Advance Negative Action Notice informing Appellant of a suspension in HHS eligibility, effective January 2015, due to a failure to submit provider logs for the 3rd and 4th quarters of 2014.
4. On ██████████, Appellant requested a hearing to dispute the suspension of HHS eligibility.

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. DHS policies regulating the MA program are contained in the Adult Services Manual.

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements. Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings. Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds.

Prior to a substantive analysis, it should be noted that the testifying Department of Community Health appeals review officer requested an adjournment of the administrative hearing. The adjournment was requested because Appellant's specialist was not available for participation in the hearing. The request was denied because DHS did not present a sufficient showing of need for the specialist's testimony. DHS also failed to demonstrate any good cause for the specialist's absence.

Appellant requested a hearing to dispute a suspension of HHS eligibility. It was not disputed that DHS suspended Appellant's eligibility, effective January 2015, due to an alleged Appellant failure to submit HHS provider logs. Specifically, DHS alleged that Appellant's 3rd quarter (July 2014-September 2014) and 4th quarter logs (October 2014- December 2014) were not submitted.

The provider must keep a log of the services provided on the DHS-721, Personal Care Services Provider Log and submit it on a quarterly basis. ASM 135 (December 2013), p. 3. The log must be signed by both the provider and client or the client's representative. *Id.* Provider logs must be received within 10 business days after the last service date on the log. *Id.*, p. 5. Failure to do so will result in suspension of payment. *Id.*

Appellant's AHR testified that he spoke with Appellant's HHS provider a few days earlier. Appellant's AHR testified that Appellant's HHS provider informed him that she submitted provider logs to DHS.

A DHS supervisor testified that if Appellant's provider logs were submitted to DHS as of the date of Appellant's hearing request, the logs would have been processed long before the date of hearing. The DHS supervisor expressed confidence that DHS did not receive Appellant's provider logs.

Appellant's AHR only provided hearsay statements concerning submission of Appellant's provider logs. The statements were neither particularly detailed nor reliable. Though DHS also could not provide first-hand testimony, the burden of proof in establishing a document submission generally falls on the party submitting the document.

Based on the presented evidence, it is found that Appellant failed to establish that 3rd and 4th quarter logs from 2014 were timely submitted to DHS. Accordingly the suspension of Appellant's HHS eligibility is found to be proper.

As discussed during the hearing, Appellant's suspension of HHS eligibility is not irreversible. DHS advised Appellant's AHR that HHS payments can be issued after completed provider logs are submitted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly suspended Appellant's HHS eligibility, effective January 2015. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Director, Nick Lyon

Michigan Department of Health and Human Services

CG/hw

Date Signed: April 16, 2015

Date Mailed: April 16, 2015

[REDACTED]

Docket No. 15-002401
Decision and Order

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.