

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

IN THE MATTER OF:

██████████
Appellant
_____ /

CASE INFORMATION

Docket No.: 15-002417-HHS
Case No.: ██████████
Appellant:
██████████
Respondent:
Department Community Health

HEARING INFORMATION

Hearing Date: April 09, 2015
Start Time: 10:00 AM
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 Leslie Sims, supervisor, ██████████ specialist, and ██████████ Department of Community Health, appeals review officer.

ISSUE

The issue is whether DHS properly suspended Appellant's home help services (HHS) eligibility without sending a written notice.

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. On an unspecified date, DHS suspended Appellant's HHS eligibility, effective January 2015.
3. DHS did not mail notice of the suspension to Appellant.
4. On ██████████, Appellant's AHR requested a hearing disputing 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.

Appellant's AHR requested a hearing to dispute a suspension of HHS eligibility, effective January 2015. DHS provided testimony that their central office suspended the HHS eligibility of numerous clients due to the cases being overdue for review.

Before a consideration of whether such an action was proper, a procedural issue must first be considered. It was not disputed that DHS suspended Appellant's eligibility without any written notice to Appellant.


Clients with active service cases must be provided written notice of any change in their services (increase, reduction, suspension or termination). ASM 150 (May 2013), p. 1. The form letters used are: DHS-1210, Services Approval Notice, DHS-1212A, Adequate Negative Action Notice, or DHS-1212, Advance Negative Action Notice. *Id.* Each notification letter includes an explanation of the procedures for requesting an administrative hearing. *Id.*

The DHS failure to provide Appellant with written notice is procedurally fatal to affirming a suspension of Appellant's HHS eligibility. The proper remedy for the lack of written notice is to reverse whatever action (even if it was a proper action) taken by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly suspended Appellant's HHS eligibility, effective January 2015. It is ordered that DHS restart Appellant's ongoing HHS eligibility, effective January 2015.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: April 20, 2015

Date Mailed: April 20, 2015

CG/hw

cc:



***** 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.