

**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:

Docket No. 15-003230 HHS

██████████

██████████

Appellant.

_____ /

DECISION AND ORDER

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 ██████████. Appellant appeared and testified. Appellant's provider Maria Veronica Veramontez appeared testify on Appellant's behalf. ██████████, Appeals Review Officer; ██████████, Adult Services Supervisor; and ██████████, Social Services Specialist appeared to testify on behalf of the Michigan Department of Health and Human Services (MDHHS or the Department).

ISSUE

Did the Department properly determine that Appellant's start date for Home Health Services (HHS) was ██████████?

FINDINGS OF FACT

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

1. On ██████████, Appellant, who is a Medicaid beneficiary, applied for HHS.
2. On ██████████ the Department of Human Services received a referral for HHS.
3. Appellant has been diagnosed with chronic kidney disease, dialysis, asthma, diabetes, hypertension, chronic obstructive pulmonary disease, congestive heart failure, blindness in the left eye and a herniated disc. (State's Exhibit A page 11)

4. On ██████████, the department Adult Services Worker made a home call to appellant, to determine her eligibility for HHS.
5. The Adult Services Worker determined that Appellant needed help with bathing, grooming, dressing, transferring, eating, medication, housework, laundry, shopping and, meal preparation.
6. On ██████████, the department sent Appellant notice that she was approved for HHS in the amount of ██████████ per month, starting ██████████.
7. On ██████████, the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing, protesting the the start date of HHS payments and asking for payment for the months of ██████████, ██████████, and ██████████.

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 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. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities **must** be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

Adult Services Manual (ASM) 120

Pertinent DHS policy dictates:

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. Home help services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the adult services specialist.

*Adult Services Manual 135, page 1, ASB 2013-004,
December 1, 2013.*

All home help providers **must** be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment. Once a provider is enrolled, Bridges will assign the provider a seven digit identification number. The adult services specialist must allow 24 hours from the time of enrollment for Bridges to interface with ASCAP. *ASM 135, page 4.*

With respect to the authorization of payments, Adult Services Manual 140 (11-1-2011) (hereinafter "ASM 140") states:

ADULT SERVICES AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges. Adult foster care, homes for the aged and home help agency providers must also be registered with Vendor Registration; see ASM 136, Agency Providers.

Note: The adult services home page provides a link to the provider enrollment instructions located on the Office of Training and Staff Development web site.

Home help services payments to providers must be:

- *Authorized for a specific period of time and payment amount.* The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
- Authorized **only** to the person or agency actually providing the hands-on services.

Note: An entity acting in the capacity of the client's fiscal intermediary is not considered the provider of home help and must not be enrolled as a home help provider; see ASM 135, Home Help Providers.

- Made payable jointly to the client and the provider.

Exception: Authorizations to home help agency providers are payable to the provider only. There are circumstances where payment authorizations to the provider only are appropriate, for example, client is physically or mentally unable to endorse the warrant. All single party authorizations must be approved by the supervisor.

- Prorate the authorization if the MA eligibility period is less than the full month. [ASM 140, page 1 of 3 (italics added).]

In this case, Appellant performed the services in [REDACTED] and [REDACTED]. Appellant testified that her provider has been caring for her for the past [REDACTED] years. She applied for the HHS benefit in [REDACTED] and the provider should be paid for her work from the date of application.

The evidence on the record indicates that the provider was confirmed as a Home Help Provider as of [REDACTED] after she had passed the criminal background check. Department policy dictates that all providers must be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment, and must have a criminal history screening pursuant to Medical Services Administration Bulletin (MSA) 14-31, effective [REDACTED]. Any services performed before enrollment cannot be paid to the provider, per ASM 135.

[REDACTED]
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The department has established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with department policy when it issued to Appellant Notice that her HHS was approved with a start date of [REDACTED], once both the home visit and the criminal background check were conducted.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department has not established by a preponderance of the evidence that [REDACTED] was the appropriate begin date for Appellant's HHS case.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

LYL/db

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.