

**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.** 15-004873 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████ Appeals Review Officer, represented the Department of Health and Human Services (DHHS or the department). ██████████ Adult Services Specialist appeared as a witness for the Department.

State's Exhibit a pages 1-27 were admitted as evidence without objection. The record was left open until ██████████, to allow for the submission of additional information.

**ISSUE**

Did the Department properly cancel Appellant's Home Help Services ("HHS") application?

**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 is diagnosed with diabetes, osteoarthritis, hypertension, breathing problems, sleep apnea, congestive heart failure, defibrillation implant, Transient ischemic attack, gastro esophageal reflux disease, benign prostate hypertrophy, legally blind in right eye, kidney failure and a nervous cough. (State's Exhibit A page 8)

3. Department records indicates that Appellant was a resident at [REDACTED] from [REDACTED] through [REDACTED]
4. On [REDACTED], the Department sent the Appellant an Adequate Negative Action Notice informing him that his HHS would be terminated effective [REDACTED] because Appellant was residing in a long term care facility. (State's Exhibit A page 5)
5. On [REDACTED], the Michigan Administrative Hearing System received a request for hearing for DHHS to contest the department's negative action. (State's Exhibit A page 4)

### **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.

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.

*Adult Services Manual (ASM) 101, page 1,  
ASB 2013-004, (12/01/2013)*

Appellant testified that he does require HHS. He suffered a stroke [REDACTED]. He was in the hospital for one week and then went to [REDACTED] for rehabilitation for [REDACTED] weeks. He returned to the hospital with a heart attack on [REDACTED]. He was discharged to the [REDACTED] until [REDACTED]. Appellant felt that he was only temporarily absent from his home and that his HHS case should not have been closed.

Pertinent department policy dictates that a person's absence (from the home) is temporary if for the month being tested:

- His location is known; **and**
- There is a definite plan for him to return home; **and**
- He lived with the group before the absence (**Note:** newborns and unborns are considered to have lived with their mothers); **and**
- **The absence did not last, or is not expected to last, the entire month** being tested unless the absence is for education, training, or active duty in the uniformed services of the U.S.

**Exception:** An absence is never temporary when:

- The month being tested is an L/H month (see BPG) for the absent person; or
- The absent person is in one of the following on the last day of a past month or on the processing date for current and future months:
  - Long-term care (LTC) facility.
  - Adult foster care facility.
  - Home for the aged.
  - Licensed child foster care home.
  - Child caring institution.

Therefore, the above persons (including spouses residing in the same facility) are never considered to be living with others. A child who has resided in a hospital for 30 or more days is not considered to be living with others and is a fiscal group of one. Certify for 12 months before re-determining eligibility for the child.

*Bridges Eligibility Manual (BEM) 211, pages 3-4;  
BPB 2015-001, January 1, 2015.*

The department representative testified that the HHS services were terminated due to the fact that Appellant was in long term care for longer than [REDACTED] days. Department records indicate that Appellant was housed as a resident at [REDACTED] from [REDACTED] through [REDACTED]. (State's Exhibit A, page 27)

The Department has established by the necessary competent, substantial and material evidence on the record that it was acting in compliance with department policy when it terminated claimant's HHS based upon the fact that Appellant was housed in a long term care facility for longer than [REDACTED] consecutive days. The department has established its case by a preponderance of the evidence. Appellant may reapply for HHS services now that he is no longer housed in Long Term Care.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied the Appellant's HHS application based on the available information.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.

*Landis Y. Lain*

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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.