

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant.

Docket No. 15-007307 HHS

██████████

██████████

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 on his own behalf. ██████████, Appellant's sister, also testified as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). ██████████ Independent Living Services Specialist, and ██████████, Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant's Home Help Services (HHS)?

FINDINGS OF FACT

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

1. Beginning ██████████, Appellant's Medicaid scope of coverage changed to "██████" and he has had a Medicaid deductible obligation/spend-down of at least ██████████ per month since that date. (Exhibit A, page 11).
2. Appellant has never met that deductive/spend-down in any month since it was established and Appellant's Medicaid has therefore remained inactive since ██████████. (Exhibit A, page 11).
3. Appellant applied for HHS and, on ██████████, ██████████ conducted a home visit and initial interview with Appellant and his sister. (Exhibit A, page 10).

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4. Following that assessment, Farmer determined that, while Appellant met the functional criteria for HHS, no payment could be authorized until he met his spend-down. (Exhibit A, page 10).
5. She also decided to open Appellant's case for █████ days and see if he would be able to meet his spend-down during that time. If not, then she would close the case. (Exhibit A, page 10).
6. However, after conferring with her supervisor and noting the length of time that that Appellant has gone without meeting his spend-down, █████ determined that the case should be closed less than 90 days from the date of the home visit. (Testimony of █████)
7. On █████, the Department sent Appellant written notice that his HHS would be terminated on █████ because he had not met his spend-down since █████ and therefore did not qualify for the program. (Exhibit A, page 4).
8. On █████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, page 5).

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.

With respect to eligibility criteria for HHS, Adult Services Manual 105 (12-1-2013) provided in part:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.

- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Medicaid/Medical Aid (MA)

The client may be eligible for MA under one of the following:

- All requirements for Medicaid have been met.
- MA deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in ASCAP for active services cases.

Medicaid Personal Care Option

Clients in need of home help personal care services may become eligible for MA under the Medicaid personal care option.

Discuss this option with the client and coordinate implementation with the eligibility specialist.

Conditions of eligibility:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is **more** than the MA excess income amount.

If **all** the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP.

Use the DHS-1210, Services Approval Notice to notify the client of home help services approval when MA eligibility is met through this option. The notice must inform the client that the home help payment will be affected by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option cannot continue if the cost of personal care becomes equal to or less than the MA excess income amount.

Note: See Bridges Eligibility Manual (BEM) 545, Exhibit II, regarding the Medicaid Personal Care Option.

ASM 105, pages 1-2 of 4

Here, pursuant to the above policy, the Department terminated Appellant's HHS on the basis that his Medicaid scope of coverage had been a "██████" since ██████████ and Appellant has never met his Medicaid deductible obligation in any month since that date, leaving his Medicaid inactive. Moreover, given the amounts of his deductible and the amount of HHS that would have been approved, the Medicaid Personal Care Option is not available to Appellant.

In response, Appellant testified that he has sent bills to his Medicaid eligibility worker and that he should be able to meet his spend-down each month.

However, as discussed during the hearing, the Home Help Program case worker did not make any determinations regarding the spend-down and has to rely on the Medicaid scope of coverage information that is provided to her. Nor does the undersigned Administrative Law Judge have jurisdiction over Medicaid determinations or calculations

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regarding spend-downs. Appellant has been advised to pursue his issues with his Medicaid eligibility worker, his eligibility worker's supervisor and, if necessary, file another request for an administrative hearing in the appropriate forum. The Department's witnesses also stated during the hearing that they would assist Appellant if they could.

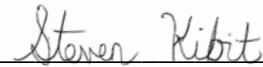
Accordingly, with respect to the issue in dispute here, the clear policy and undisputed evidence in this case demonstrate that the termination was proper and that the Department's action must therefore be affirmed.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



Steven Kibit

Administrative Law Judge
for Nick Lyon, Director

Michigan Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/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.