

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-012289 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 ██████████. Appearing on behalf of the Appellant was ██████████ (Representative). ██████████ and the Appellant's current provider ██████████ testified on the Appellant's behalf. ██████████ Manager of Appeals, represented the Department. ██████████ Adult Services Worker (ASW) and ██████████, Supervisor appeared as a witnesses for the Department.

ISSUE

From ██████████ through ██████████ did the Department make proper Home Help Services (HHS) payments to ██████████

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 or around ██████████ the ASW assumed the Appellant's case. (Testimony.)
2. As of ██████████ the Appellant received HHS. (Exhibit A, p 7; Testimony.)
3. From ██████████ through ██████████ the Department made payments to ██████████ for providing HHS to the Appellant as the Appellant's provider. (Exhibit A, pp 6-15; Testimony.)
4. On ██████████, the ASW conducted an assessment of the Appellant. The Appellant and ██████████ ██████████ ██████████ participated in the

assessment. During the assessment, [REDACTED] was identified as the Appellant's provider. (Exhibit A, p 6; Testimony.)

5. On [REDACTED], the Department received a Services Provider Log indicating [REDACTED] performed HHS tasks for the Appellant from [REDACTED] through [REDACTED]. The log was signed by both [REDACTED] and the Appellant. (Exhibit A, p 22.)
6. On [REDACTED] and [REDACTED] went to the Department and indicated [REDACTED] began providing HHS to the Appellant in [REDACTED] (Exhibit A, p 6; Testimony.)
7. On or around [REDACTED], [REDACTED] the Appellant and [REDACTED] completed a DHS 4676. (Exhibit A, p 6; Testimony.)
8. On [REDACTED], MAHS received from the Appellant a request for hearing. (Exhibit A, p 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.

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.

Adult Services Manual (ASM) 101, 11-1-11, addresses HHS payments:

Payment Services Home Help

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.

ASM 101, 12-1-2013, p.1.

ASM 135, addresses Home Help Providers:

Provider Selection

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.

Provider Interview

An initial face-to-face interview must be completed with the home help provider. A face-to-face or phone contact must be made with the provider at the six month review or redetermination to verify services are being furnished.

Explain the following points to the client and the provider during the initial interview:

- The provider is employed by the client not the State of Michigan.
- As the employer, the client has the right to hire and fire the provider.
- A provider who receives public assistance must report all income received as a home help provider to their family independence specialist or eligibility specialist.
- The client and provider are responsible for notifying the adult services specialist within 10 business days of any change in providers or hours of care.
- The provider and/or client is responsible for notifying the adult services specialist within 10 business days if the client is hospitalized.

Note: Home help services cannot be paid the day a client is admitted into the hospital but can be paid the day of discharge.

- 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. The log must be signed by both the provider and client or the client's representative.

- All earned income must be reported to the IRS; see www.irs.gov.
- No federal, state or city income taxes are withheld from the warrant.
- Parents who are caring for an adult child do not have FICA withheld.

Note: Parents who wish to have FICA withheld must be assigned in ASCAP as other relative in the Provider Assignment screen.

- All individual providers will receive a W-2 by the Michigan Department of Community Health.
- Provider must display a valid picture identification card and social security card.
- The client and provider must sign the MSA-4676, Home Help Services Statement of Employment, before payments are authorized.

Note: Providers determined to be a business/agency are exempt from signing the MSA-4676.

- All providers must sign a MSA-4678, Home Help Services Provider Agreement, before payments are authorized.

Note: Providers are required to complete and sign the agreement only once. If there is a signature date on Bridges/ASCAP provider screen, another MSA-4678 does not need to be completed and signed.

Home Help Statement of Employment (MSA-4676)

The purpose of the MSA-4676, Home Help Services Statement of Employment, is to serve as an agreement between the client and provider which summarizes the general requirements of employment. The form is completed by the adult services specialist as part of the provider enrollment process.

An employment statement must be signed by **each** provider who renders service to a client.

ASM 135, 12-1-2013, pp.1-5 of 9.

* * *

The ASW testified that from ██████████ through ██████████ was the documented provider of record for the Appellant and that it wasn't until ██████████ that the Department received notification that there was a change in the provider.

The Appellant's Representative testified that it wasn't until about ██████████ that he and the new provider completed a Home Help Statement of Employment.

There was no evidence to indicate that there was notification prior to ██████████ that there was a change in the provider. Additionally, policy requires that certain requirements be met prior to payments being made to providers for HHS services. There was no evidence of either the new provider or Appellant meeting those requirements prior to ██████████.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence, that his new provider ██████████ should be paid for HHS allegedly performed between ██████████ and ██████████. Accordingly, I find evidence to affirm the Department's actions in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly issued payment to the Appellant's provider of record between ██████████ and ██████████.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Corey Arendt
Administrative Law Judge
for Director, Nick Lyon

Michigan Department of Health and Human Services

Date Signed: ██████████
Date Mailed: ██████████

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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 must 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.