

**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:

██████████

Appellant

Docket No. 15-012386 HHS

Case No. ██████████

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 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. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly deny 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 applied for HHS on or about ██████████. (Exhibit A, pp 9-10; Testimony)
2. Appellant has been diagnosed with ameloblastoma, pulmonary embolism, atrial fibrillation, and lymphedema. (Exhibit A, p 11; Testimony)
3. On ██████████, the ASW received Appellant's application for HHS as well as a 54A Medical Needs Form signed by Appellant's doctor on ██████████. However, Appellant's doctor failed to certify that Appellant had a need for any assistance with Activities of Daily Living (ADL's) or Instrumental Activities of Daily Living (IADL's) on the Medical Needs Form. (Exhibit A, p 11; Testimony)
4. On ██████████, the Department sent Appellant an Adequate Action Notice informing him that his HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL, and that need being documented on the Medical Needs Form by a physician. (Exhibit A, p 5; Testimony)
5. Subsequent to the denial, the ASW also learned that Appellant is dually

eligible for Medicaid and Medicare and, as such, is enrolled in a Medicaid Health Plan – Meridian Health Plan of Michigan (Meridian). Given Appellant's enrollment in Meridian, the ASW indicated that Appellant would not be eligible for HHS through the Department, but might be eligible for chore services through Meridian. The ASW indicated that Appellant would have to apply for those services directly through Meridian. (Testimony)

6. On ██████████, Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit 1)

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.

Adult Services Manual (ASM) 105, 4-1-15, addresses HHS eligibility criteria:

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 indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Necessity For Service

The adult services specialist is responsible for determining the necessity and level of need for home help services based on all of the following:

- Client choice.

- A completed DHS-324, Adult Services Comprehensive Assessment. An individual must be assessed with at least one activity of daily living (ADL) in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services if assessed at a level 3 or greater.

Example: Ms. Smith is assessed at a level 4 for bathing. However, she refuses to receive assistance or her daughter agrees to assist her at no charge. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater

Note: If an individual uses adaptive equipment to assist with an ADL, and without the use of this equipment the person would require hands-on care, the individual must be ranked a level 3 or greater on the functional assessment. This individual would be eligible to receive home help services.

Example: Mr. Jones utilizes a transfer bench to get in and out of the bathtub, which allows him to bathe himself without the hands-on assistance of another. The adult services specialist must rank Mr. Jones a 3 or greater under the functional assessment. Mr. Jones would be eligible to receive home help services.

Assistive technology includes such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and hand held showers.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

*Adult Services Manual (ASM) 105,
4-1-2015, pp 1-4
Emphasis added*

Adult Services Manual (ASM) 115, 4-1-15, addresses HHS requirements:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Physician assistant.
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. **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.

If the medical needs form has not been returned, the adult services specialist should follow-up with the client and/or medical professional.

Do **not** authorize home help services prior to the date of the medical professional signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is **before** the date on the DHS-390, payment for home help services must begin on the date of the application.

Example: The local office adult services unit receives a DHS-54A signed on 1/18/2014 but a referral for home help was never made. The adult services staff enters a referral on ASCAP and mails an application to the client. The application is returned to the office with a signature date of 2/16/2014. Payment cannot begin until 2/16/2014, or later, if the provider was not working during this time period.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

Veteran's Administration (VA)

The Michigan Department of Community Health (MDCH) will accept a DHS-54A completed by a Veteran's Administration physician or the VA medical form in lieu of the medical needs form.

*Adult Services Manual (ASM) 115
4-1-15, pp 1-3
Emphasis added*

The ASW testified that on ██████████, she received Appellant's application for HHS as well as a 54A Medical Needs Form signed by Appellant's doctor on ██████████. The ASW indicated, however, that on Appellant's Medical Needs Form, Appellant's doctor indicated that Appellant did not need any assistance with ADL's or IADL's. Based on this information, on ██████████, the ASW testified that she sent Appellant an Adequate Action Notice informing him that his HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL, and that need being documented on the Medical Needs Form by a physician.

Appellant testified that ██████████, the doctor who completed the Medical Needs Form is no longer at the practice and is no longer his doctor. Appellant indicated that he needs help taking the pressure wraps off his legs as he cannot do it on his own. Appellant indicated that he can bathe himself, but needs assistance taking the wraps off and putting them back on after bathing. Appellant testified that he also had surgery earlier this month and his condition has worsened since that time. Appellant indicated that currently an Occupational Therapist comes in once a week to change his wraps, but that is not enough as they should be changed every day.

The evidence was not sufficient to establish that Appellant had a need for hands on assistance, functional ranking 3 or greater, with at least one ADL, based on the fact that

Appellant's doctor did not certify a need for assistance with ADL's, as required, on the Medical Needs Form. Accordingly, the denial of the Appellant's HHS application is upheld.

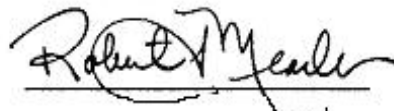
Appellant was given information by the ASW on how to contact Meridian to apply for chore services through his insurance company.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

cc:

[REDACTED]

[REDACTED]
Date Signed: [REDACTED]

Date Mailed: [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.