

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-014464 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 the Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████. Appellant appeared and testified. ██████████, Appeals Review Officer and ██████████, Adult Services Worker appeared as witnesses for the Department of Health and Human Services (the Department).

State's Exhibit A pages 1-18 were admitted as evidence.

ISSUE

Did the Department properly cancel the 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. Appellant was a Medicaid beneficiary, who was receiving HHS benefits since ██████████.
2. Appellant's date of birth is ██████████.
3. Appellant is diagnosed with congestive heart failure, lower extremity edema, essential hypertension, coronary artery disease, breast cancer, obesity, arthritis and chronic pain.
4. On ██████████, the Appellant's doctor provided a DHS 54A Medical Needs form which indicates that Appellant is wheelchair bound and needs assistance with bathing, toileting, grooming, dressing, transferring, mobility, taking medication, meal preparation, shopping, laundry and housework. (State's Exhibit A page 10)

5. On [REDACTED], a home call letter was sent to Appellant from the new caseworker, scheduling the six month review home visit for [REDACTED] between 1:00 PM and 5:00 PM.
6. On [REDACTED], the worker attempted to conduct the home visit but stated that no one came to the door.
7. Appellant notified her Food Assistance Program worker of her change in address.
8. On [REDACTED], the Department caseworker attempted to perform a scheduled home visit.
9. Appellant was not at home for the home visit.
10. On [REDACTED], Appellant left a voicemail message on the worker's telephone indicating that she had been home for the scheduled visit and the worker did not show up.
11. On [REDACTED], the Department caseworker sent Appellant an Advance Negative Action Notice stating that client was unavailable for a scheduled home visit on [REDACTED]. Client has made no attempts to contact worker to reschedule. The client is refusing services with an effective date of [REDACTED]. (State's Exhibit A page 80)
12. On [REDACTED], Appellant filed a request for a hearing stating that she was at home with her provider all day and the worker never showed up to conduct the scheduled home visit.

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) 155, pages 1-2 addresses HHS home visit requirements:

Independent living services (home help) cases must be reviewed every six months. A face-to-face contact is required with the client, in the home.

A face-to-face or phone contact must be made with the provider at six month review and redetermination to verify services are being furnished.

Note: If contact is made by phone, the provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local DHS office must take place at the next review or redetermination.

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.
- Verification of the client's Medicaid eligibility, when home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan, if applicable.
- Review of client satisfaction with the delivery of planned services.
- Reevaluation of the level of care to assure there are no duplication of services.
- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

Case documentation for **all** reviews must include:

- An update of the "**Disposition**" module in ASCAP.
- A review of **all** ASCAP modules with information updated as needed.
- A brief statement of the nature of the contact and who was present in the **Contact Details** module of ASCAP. A face-to-face contact entry with the client generates a case management billing.
- Documented contact with the home help provider.
- Expanded details of the contact in **General Narrative**, by clicking on **Add to & Go To Narrative** button in **Contacts** module.
- A record summary of progress in service plan.

Procedures and case documentation for the annual review are the same as the six month review, with the following addition(s):

- A new DHS-54A certification, if home help services are being paid.

Note: The medical needs form for SSI recipients and Disabled Adult Children (DAC) is **only** required at the initial opening and is not required for the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and annually thereafter.

- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

The Department caseworker testified that Appellant's case was transferred to her caseload. She had never met the Appellant and had never been to Appellant's house. She came to the home for the home visit and Appellant was not there. The notes of the caseworker indicate that ██████████ at ██████████ she attempted a home visit and the client and provider were a no show. (State's Exhibit A page 17) While the caseworker's testimony is credible, she herself sent notice to the client on ██████████ that the home visit would occur between the hours of 1:00 pm to 5:00 pm. She had no other notes which indicated what time she got to the house and whether she attempted to contact the client to reschedule the home visit. The caseworker could not remember if the client contacted her or when. She did state that she told the client to ask for a hearing.

Appellant testified that she waited all day for the caseworker to come to her house from 11:00 until 7:00 and no one came. She did not know anything until she received the Advance Negative Action Notice stating that her case was going to close. Appellant called the caseworker on ██████████ and left a voice mail message. Appellant's witness testified that she called the caseworker and that finally the caseworker got back with her but told them to ask for a hearing. The caseworker did not reschedule the home visit.

This Administrative Law Judge finds that the Appellant and her witnesses provided detailed, credible evidence and testimony that the caseworker failed to follow Department policy and procedure when she attempted to conduct a required home visit for purposes of HHS redetermination. The caseworker gave absolutely no testimony as to what happened on the date she attempted the visit. Nor did she note any information in her notes to indicate that she actually went to the correct house to conduct the home visit. This Administrative Law Judge finds that the business record indicates that the home visit was attempted at 12:00 PM when it was scheduled for 1:00 PM-5:00PM. Thus, there was no proper notice of the visit.

The Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it cancelled Appellant's HHS benefits based upon its determination that Appellant was not available for her scheduled HHS home visit. The Department's decision to cancel Appellant's HHS case cannot be upheld.

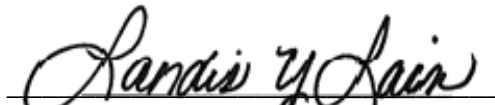
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department did not properly cancel the Appellant's HHS case based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**. The Department is ORDERED,

1. to reinstate Appellant's HHS case to the date of closure,
2. allow Appellant's provider to provide service logs
3. pay to appellant any benefits to which she was eligible from the date of HHS case closure; and
4. Conduct an updated in-home assessment with Appellant and her provider.



Landis Y. Lain

Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

LYL/ [REDACTED]

cc: [REDACTED]

Date Mailed: February 11, 2016

***** 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.