

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

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IN THE MATTER OF:

MAHS Docket No. 15-016322 H [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

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.*, and upon Appellant's request for a hearing.

After due notice, an in-person hearing was held on [REDACTED]. Appellant appeared and testified on her own behalf. [REDACTED], Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). [REDACTED], Adult Services Worker (ASW), and [REDACTED], Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's request for the Department to rewrite a warrant for 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 is a [REDACTED] year-old Medicaid beneficiary who has been diagnosed with, among other conditions, hypothyroidism, major depression, anemia, a panic disorder, and agoraphobia. (Exhibit A, page 8).
2. Since [REDACTED], Appellant has been approved for HHS through the Department. (Exhibit A, page 7).
3. For the time period of [REDACTED] through [REDACTED], Appellant was approved for [REDACTED] per month of HHS. (Exhibit A, page 11).

██████████
Docket No. 15-016322 HHS
Decision and Order

4. After ██████████ payments for HHS automatically stopped because the required annual redetermination had not yet been completed. (Exhibit A, page 12; Testimony of Appellant; Testimony of ASW).
5. Appellant's home help provider continued to provide the authorized services and Appellant paid the provider out-of-pocket. (Testimony of Appellant).
6. On ██████████, Appellant called the ASW to advise her that Appellant's home help provider had quit. (Exhibit A, page 14).
7. On ██████████, the ASW sent Appellant an Advance Negative Action Notice informing Appellant that her HHS would be suspended effective ██████████ because she had no home help provider and that she had █ business days to get a new provider to avoid a suspension. (Exhibit A, page 18).
8. On ██████ ████ ██████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant with respect to that suspension. (Exhibit A, page 19).
9. The appeal was docketed as Docket No. 14-014619 HHS. (Exhibit A, pages 18-19).
10. On ██████████, while the appeal in Docket No. 14-014619 HHS was pending, Appellant and a new help provider went to the local office and had the new home help provider enrolled. (Exhibit A, page 19).
11. The required annual redetermination was also completed and Appellant was authorized for ██████████ per month of HHS, effective ██████████ (Exhibit A, page 11; Testimony of Appellant; Testimony of ASW).
12. On ██████████, the Department issued a dual-party warrant, in both Appellant's and her former home help provider's name, in the amount of ██████████ as retroactive payment for the time period of ██████████ through ██████████. (Exhibit A, pages 12, 22).
13. The hearing in Docket No. 14-014619 HHS was held on ██████████ before Administrative Law Judge (ALJ) ██████████ (Exhibit A, pages 18, 23).
14. On ██████████ ALJ ██████████ issued a Decision and Order in Docket No. 14-014619 HHS. (Exhibit A, pages 18-23).

██████████
Docket No. 15-016322 HHS
Decision and Order

15. In that ██████████ and Order, ALJ ██████████ determined that he lacked jurisdiction over any claim regarding a missed payment in ██████████ as such a claim would be untimely, and he affirmed the Department's decision to suspend payments until a new home help provider was enrolled and to only authorize payments for the provider starting on the date of enrollment. (Exhibit A, pages 18-23).
16. With respect to the time period of ██████████ through ██████████ ALJ ██████████ also noted:

The ASW stated ██████████ was the last date for which the Appellant's previous provider received payment . . . Finally, the ASW acknowledged that Appellant's previous provider, who quit, was not paid for the services she provided for the months of ██████████ through ██████████ until after she quit. Payment for those months was issued on ██████████

Exhibit A, page 22

17. On ██████████ Appellant filed a document with MAHS alleging that the Department reneged on an agreement to reissue the ██████████ dual-party warrant in just Appellant's name and asking for a hearing on that issue.
18. MAHS deemed the document a new request for hearing and docketed it as Docket No. 15-000275 HHS.
19. On ██████████ Appellant filed a Motion for Reconsideration of ALJ ██████████'s Decision and Order in Docket No. 14-014619 HHS.
20. In that request, Appellant challenged ALJ ██████████ decision regarding a missing payment in ██████████ and the start date of payments for her new provider.
21. She also noted that while she believed at the time of the hearing that the Department had agreed to reissue the ██████████ dual-party warrant in just Appellant's name, and therefore told ALJ ██████████ that the issue was resolved, the Department subsequently reneged on an agreement.
22. In ██████████, Appellant filed documents in Docket No. 15-000275 HHS indicating that she had not received HHS payments for ██████████ and ██████████

██████████
Docket No. 15-016322 HHS
Decision and Order

23. With due notice, an in-person hearing was scheduled before ALJ ██████████ in Docket No. 15-000275 HHS for March 24, 2015.
24. However, on ██████████, ALJ ██████s noted that most of Appellant's appeal was improperly before her as it was actually part of the pending Motion for Reconsideration in Docket No. 14-014619 HHS.
25. Moreover, with respect to the sole issue that ALJ F█████ identified as properly part of Docket No. 15-000275 HHS, *i.e.* home help payments for ██████████ and ██████████ she determined that the hearing should be adjourned and rescheduled for a later date.
26. After due notice, the rescheduled in-person hearing in Docket No. 15-000275 HHS was held with the undersigned ALJ on ██████████
27. During that hearing, the parties confirmed on the record that the home help payments for J█████ and ██████████ had subsequently been paid and that sole issue identified by ALJ ██████ for Docket No. 15-000275 HHS was resolved.
28. Accordingly, that same day, the undersigned Administrative Law Judge dismissed the matter in Docket No. 15-000275 HHS
29. On ██████ ██████ ██████ Supervising Administrative Law Judge ██████████ issued an Order Denying Appellant's Request for Rehearing in Docket No. 14-014619 HHS.
30. In that order, she found that Appellant's request did not meet the criteria for rehearing or reconsideration of ALJ ██████ decision.
31. She did not specifically address any arguments relating to Appellant's claims that the Department reneged on an agreement to reissue the ██████████ dual-party warrant in just Appellant's name.
32. On ██████████, Appellant returned to the Department the ██████████ ██████ dual-party warrant for ██████████ that had been issued in both Appellant's and her former home help provider's name as retroactive payment for the time period of ██████████ through ██████████. (Exhibit A, page 5).
33. The Department subsequently cancelled the warrant. (Exhibit A, page 12).
34. Appellant also asked that the Department reissue the warrant, first in just her name and then in both her and her former home help provider's name. (Testimony of Appellant).

██████████
Docket No. 15-016322 HHS
Decision and Order

35. The ASW and her supervisor denied the request to reissue the warrant. (Testimony of ASW; Testimony of Adult Services Supervisor).
36. On ██████████ MAHS received the request for hearing filed in this matter regarding the Department's denial of her request to reissue the warrant. (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 statutes, 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.

Here, Appellant has been continually approved for HHS and the issue on appeal is the Department's denial of a request by Appellant to reissue a warrant for payment of HHS. As discussed above, on ██████████ the Department issued a dual-party warrant, in both Appellant's and her former home help provider's name, in the amount of ██████████ as retroactive payment for the time period of ██████████ through ██████████. Appellant eventually returned that warrant to the Department, on ██████████ and has asked that the Department reissue it. Specifically, Appellant first asked that the Department reissue the warrant in just Appellant's name and then later asked that it again be written in both her and her former provider's name. In either case, the Department denied the request.

In response to the appeal, the Department argues that the same issue was addressed in the Decision and Order issued by ALJ ██████████ on ██████████. However, that is not the case as ALJ ██████████'s Decision and Order only referred to the fact that the ██████████ warrant had been issued and Appellant was not even seeking reissuance of the warrant at that time. Appellant did claim in both her Motion for Reconsideration of ALJ ██████████ decision and in a subsequent request for hearing that the Department had reneged on an agreement to reissue the warrant in just her name, that claim was not addressed in the denial of her motion and was not deemed by ALJ ██████████ to be part of Appellant's appeal in Docket No. 15-00025 HHS. Moreover, Appellant only returned the warrant to the Department in ██████████, which was after the previous two cases closed. Accordingly, Appellant's issue in this case had never been ruled on and it should not be dismissed on that basis.

Regarding warrants, Adult Services Manual 160 (5-1-2013) provides in part:

GENERAL INFORMATION

Adult services warrants are processed through the Michigan Department of Community Health Adult Services Authorized Payments (ASAP) system and are rewritten by the MDCH Medicaid Collections Unit (MCU).

The local DHS fiscal unit or the Department of Treasury receives returned warrants.

The adult services specialist is responsible for determining the disposition of all adult services warrants received by the local DHS fiscal unit or returned to the Department of Treasury. The DHS-2362, Service Warrant Rewrite/Disposition Request and the DCH-2362A, Adult Services Warrant Rewrite/Disposition Request, are the forms used when determining if a warrant needs to be rewritten or canceled.

DHS-2362/DCH-2362A

The DHS-2362 is used by the local DHS fiscal unit when a warrant is received in the local office. The DCH-2362A is generated electronically by ASAP or the MDCH Medicaid Collections unit when a warrant is canceled, stopped or returned to Treasury as undelivered.

When a warrant includes multiple clients (agencies or adult foster care providers) and multiple adult services specialists are involved with one rewrite request, the request is to be coordinated by the local DHS fiscal unit(s).

WARRANT REWRITE ACTIONS

The **original** warrant may be rewritten once. All information pertaining to the client and provider must be accurate on ASCAP and Bridges. The specialist must verify the following before processing the DHS-2362 or DCH-2362A.

- Dual-party warrants:

Client address information must be updated on the Basic Client screen in ASCAP.

- Single-party warrants:

Changes to provider information must be done on Bridges by completing the DHS-2351X, Provider Enrollment/Change Request.

- Agency or business providers.

The provider information on Bridges and Vendor Registration (MAIN) must match. Agencies must submit a new W-9 to Vendor Registration whenever there is a change in address; see ASM 136.

Acceptable Actions

The following are acceptable actions for a warrant rewrite:

- A warrant can be replaced for the period covered in the original warrant once the warrant has been canceled or voided by Treasury.
- A warrant can be rewritten for the same amount or a lesser amount than the original warrant.
- A dual-party warrant can be rewritten to a provider only.

Unacceptable Actions

The following actions are **not** acceptable for a warrant rewrite:

- Warrants cannot be rewritten to a provider other than the provider identified in the original warrant.

Note: To issue a warrant to a different provider, the original warrant must be canceled and a new authorization must be entered on the ASCAP payment screen for the new provider.

- Warrants cannot be rewritten for a higher amount than the original warrant.

Note: Increases in warrant amounts are processed as retroactive payment adjustments on ASCAP.

██████████
Docket No. 15-016322 HHS
Decision and Order

- Cannot be rewritten if pulled by Treasury; see to ASM 161 for Treasury status codes.

Adult services specialists are not to accept returned warrants. Warrants must be returned to either the local DHS fiscal unit or mailed directly to the Department of Treasury (return address for the Department of Treasury is located on warrant).

PAYMENT HISTORY

A history of adult services warrants can be obtained via ASCAP under the DCH Payroll function.

*ASM 160, pages 1-3
(Underline added for emphasis)*

Given the above policy, the Department properly denied Appellant's request to rewrite the dual-party warrant in just Appellant's name, but erred in denying Appellant's request to rewrite the original warrant.

Appellant testified that she wanted the dual-party warrant rewritten in just her name because she had already paid the provider out-of-pocket for providing services between ██████████ and ██████████ a period when HHS payments had stopped, without notice, because the annual redetermination had not yet been completed, and that Appellant alone was therefore entitled to the entire retroactive payment by the Department. However, as testified to by the Department's witnesses, payments for HHS are to be made to the provider and it is not proper under policy for a beneficiary to pay the home help provider directly and then seek reimbursement from the Department, even if payments have temporarily stopped because a redetermination had not yet been completed through no fault of the beneficiary. Additionally, and more importantly for this case, the above policy does not provide for any mechanism by which the dual-party warrant can be rewritten in just Appellant's name. Accordingly, the Department properly denied Appellant's request to rewrite the warrant in Appellant's name.

With respect to rewriting the warrant in both Appellant's and her former home help provider's name however, the above policy does authorize rewriting the original warrant. In fact, the above policy expressly provides that "The **original** warrant may be rewritten once" and that acceptable actions for a warrant rewrite include replacing a warrant "for the period covered in the original warrant once the warrant has been canceled or voided by Treasury" and rewriting the warrant "for the same amount or a lesser amount than the original warrant." Here, the ██████████ warrant has been cancelled and Appellant has now asked that the original warrant be rewritten for the same amount and to the same parties. In response, the Department's witnesses testified that the original warrant will not be rewritten because Appellant was in receipt of it for months and had

Docket No. 15-016322 HHS
Decision and Order

full opportunity, up to the date it was returned and cancelled, to have it cashed and because, based on Appellant's own statements, the home help provider has already been paid by Appellant. However, whether Appellant could have had the original warrant cashed, it was returned by Appellant and the above policy expressly provides, without any limitations, that the original warrant may be rewritten once. Also, Appellant is not asking the Department to do anything it did not do before or make any additional payments, and the Department's concerns about who will eventually get all or some of payment lack credibility given that it never sought to cancel the warrant at any time on its own initiative, despite Appellant's consistent statements regarding her HHS. Accordingly, the Department erred in denying Appellant's request to rewrite the original warrant.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly denied Appellant's request to rewrite a warrant.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED** and it must initiate a reissuance of the original [REDACTED] warrant.

Steven Kibit

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]
[REDACTED]
[REDACTED]
[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.