

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

P.O. Box 30763, Lansing, MI 48909
(517) 373-0722; Fax: (517) 373-4147

IN THE MATTER OF:

MAHS Docket No. 15-016538 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.*, 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. ██████████ Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). ██████████, Adult Services Supervisor, testified as a witness for the Department.

ISSUE

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

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 who has been authorized to receive HHS since ██████████. (Exhibit A, page 11).
2. In the most recent authorization, Appellant was approved for ██████████ per month in HHS. (Exhibit A, page 12).
3. On ██████████ Appellant's Adult Services Worker (ASW) at the Department printed out a blank DHS-54A Medical Needs Form. (Exhibit A, page 9).
4. On ██████████ the ASW conducted a home visit with Appellant in Appellant's home. (Exhibit A, page 10).

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5. On [REDACTED] the ASW printed out another blank Medical Needs Form. (Exhibit A, page 8).
6. That same day, the ASW mailed Appellant a written notice of termination. (Exhibit A, pages 6-7).
7. The notice of termination provided that the Medical Needs Form sent to Appellant in [REDACTED] had not been returned, as required by policy, and that Appellant's HHS would be terminated on [REDACTED] if one was not received by the Department by that day. (Exhibit A, pages 6-7).
8. No completed Medical Needs Form was received by [REDACTED] and Appellant's HHS payments stopped on that date. (Exhibit A, page 12).
9. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the decision to terminate Appellant's HHS. (Exhibit A, page 4).
10. On [REDACTED] the ASW left a phone message for Appellant stating that he was case would be closed because it had not received an updated medical needs form. (Exhibit A, page 10).
11. On [REDACTED] the Department received a Medical Needs Form regarding Appellant forwarded to it by a [REDACTED]. (Exhibit B, page 1).
12. However, the form was unsigned, incomplete, and had a note on it questioning why Appellant needed services. (Exhibit B, page 1).
13. The ASW then contacted [REDACTED] office and asked it to submit a completed form. (Testimony of Pierce).
14. The Department subsequently received a completed Medical Needs Form signed by [REDACTED] on [REDACTED]. (Exhibit B, page 2).
15. In that form, [REDACTED] checked "NO" when asked to certify that Appellant had a medical need for assistance with any of the listed personal care activities. (Exhibit B, page 2).
16. On [REDACTED], the Department closed Appellant's case. (Exhibit A, page 11).

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.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to Medical Need Forms, Adult Services Manual 115 (4-1-2015) (hereinafter "ASM 115") states in part:

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.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

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 the [sic] 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 . . .

ASM 115, page 1 of 3
(Emphasis added)

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Here, the Department terminated Appellant's HHS pursuant to the above policy and on the basis that the Department did not receive an annual Medical Needs Form certifying a medical need for personal care services. In support of that decision, the Department's witness noted that Appellant was provided blank Medical Needs Forms in both ██████ and ██████████, but that the Department never received a completed Medical Needs Form by the deadline identified in the notice of termination. She also noted that, while the Department did subsequently receive a completed Medical Needs Form, the doctor who completed that form did not certify a medical need for personal care services.

In response, Appellant testified that he still needs HHS and that his medical conditions are only getting worse. He also testified that he took a blank Medical Needs Form to ██████ ██████ office and asked the office to forward it to his neurologist so that the neurologist could complete the form and return it to the Department. He further testified that ██████. ██████ never should have completed the form because, while she was one of his doctors, she is unfamiliar with his conditions and needs that justify HHS. According to Appellant, it is his neurologist's office that assisted him with getting HHS in the first place and that is why he asked ██████ office to forward the form to his neurologist's office.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating his HHS.

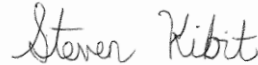
Given the record in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the Department's decision must therefore be affirmed. The above policy expressly provides that recipients of HHS such as Appellant must have a Medical Needs Form certifying a medical need for personal care services completed annually and, in this case, it is undisputed that the Department never received a new Medical Needs Form. Moreover, while Appellant testified that the Department never received such a form only because ██████ improperly completed it, rather than forwarding the form to Appellant's neurologist as Appellant instructed, the Department can only act in response to the information it receives and, as provided in the above policy, Appellant is ultimately responsible for obtaining the medical certification of need and ensuring that it is provided to the Department.

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: ██████████

Date Mailed: ██████████

SK/db

cc: ██████████
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***** 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.