

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

P.O. Box 30763, Lansing, MI 48909
(800) 648-3397; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-020198 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 hearing was held on ██████████. Appellant and his son, ██████████, appeared to testify at the hearing. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Specialist Worker (ASW) and ██████████, Adult Services Supervisor appeared and testified as a witness for the Department.

State's Exhibit A pages 1-24 were admitted as evidence.

ISSUE

Did the Department properly cancel 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 is a Medicaid beneficiary, born ██████████.
2. Appellant was receiving HHS.
3. Appellant is diagnosed with depression, shoulder pain; torn tendon and asthma.
4. On ██████████, the Department received a DHS 54-A Medical Needs form which did not certify that Appellant has a medical need for assistance with any of the personal care activities. (State's Exhibit A page 13)
5. On ██████████, the Adult Services Worker sent Appellant an Advance Negative Action Notice informing Appellant that his HHS would be terminated because the DHS 54A Medical Needs form did not certify a

further need for Home Help Services.

6. On [REDACTED], the Michigan Administrative Hearing System received a request for hearing for the Michigan Department of Health and Human Services to contest the Department's negative action.

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.

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

For case registration and disposition the department must:

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendar days to return the documentation to the local office.

Note: The introduction letter does **not** serve as adequate notification if home help services are denied. The specialist must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

The adult services specialist must determine eligibility within the 45 day standard of promptness which begins from the time the referral is received and entered on ASCAP. The referral date entered on ASCAP must be the date the referral was received into the local office. The computer system calculates the 45 days beginning the day after the referral date and counting 45 calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: A medical need form does not serve as an application for services. If the local office receives the DHS-54A, a referral must be entered on ASCAP for the date the form was received in the local office and an application sent to the individual requesting services.

After receiving the assigned case, the adult services specialist gathers information through an assessment, contacts, etc. to make a determination to open, deny or withdraw the referral; see ASM 115, Adult Services Requirements.

ASM 110, pages 1-2 5-1-2013, ASB 2013-003

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. The medical professional must hold one of the following professional licenses:

- Physician (M.D. or D.O.)
- Physician Assistant
- Nurse Practitioner
- Occupational Therapist.
- Physical therapist. ASM 115, page 2; 4-1-2015, ASB 2015-003

The medical professional certifies that the client's need for services is related to a medical condition. ASM 115, page 2

The evidence on the record indicates that Appellant did provide a completed DHS 54A Medical Needs form to the Department on ██████████. The medical doctor checked 'no' on the form where it asks, 'Do you certify the patient has a medical need for assistance with any of the personal care activities listed'. Thus, Appellant has no certified medical need for assistance with personal care activities.

Appellant's son testified that he continues to provide services for his father and that his father continues to have need of the services.

The Department has established by the necessary competent, substantial and material evidence on the record that it was acting in compliance with department policy when it terminated Appellant's HHS based upon the fact that Appellant and Appellant's physician did not establish a certified medical need for assistance with personal care services. This Administrative Law Judge has no equitable powers and cannot make a

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decision in contravention of Department policy. The Department's action must be upheld.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.



Landis Y. Lain

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

LYL [REDACTED]

cc: [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.