

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
Phone: (800)-648-3397; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No.: 15-020401-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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant appeared and offered testimony on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Workers (ASW) and ██████████, Lead Office of Inspector General Agent, appeared as witnesses for the Department.

ISSUE

Did the Department properly suspend the Appellant's Home Help Services (HHS) payments beginning in ██████████?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. As of ██████████, the Appellant was receiving HHS. (Testimony).
2. In ██████████, the Department stopped issuing HHS payments to the Appellant due to a BRIDGES stop date. (Testimony).
3. On ██████████, the ASW met with the Appellant and discovered the Appellant's case name did not match the name on the identification card produced by the Appellant. The ASW asked the Appellant to provide a birth certificate to clear up the confusion in the names and to provide records regarding hospital stays and hard copies of her provider logs. The ASW and the Appellant verbally agreed the logs, medical records and birth certificate would be submitted by ██████████. (Exhibit A, p 9; Testimony).

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4. On or around [REDACTED], the ASW referred the identity issue to the Office of Inspector General for a possible fraud issue regarding the Appellant's identity. (Exhibit A, p 8; Testimony).
5. As of [REDACTED], the Appellant did not return the requested documentation. (Testimony).
6. The Department provided the Appellant until [REDACTED] to return the requested documentation. (Testimony).
7. As of [REDACTED], the requested documentation has not been returned. (Testimony).
8. As of [REDACTED], the Office of Inspector General's investigation into the Appellant's identity issue was complete. The Office of Inspector General's findings indicated the Appellant had not committed a fraud regarding her identity and the receipt of HHS. (Testimony).
9. As of [REDACTED], the Appellant's HHS case was open. (Testimony).
10. At no time between [REDACTED] and [REDACTED] did the Appellant receive any HHS payments. (Testimony).
11. At no point in time between [REDACTED] and [REDACTED] did the Department send the Appellant any type of notice regarding the suspension of HHS payments. (Exhibit A; Testimony).
12. On [REDACTED], the Michigan Administrative Hearings System (MAHS) received from the Appellant a request for hearing regarding the suspension of her HHS payments beginning in [REDACTED]. (Exhibit A, p 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 statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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) 101 (12-1-2013) addresses the issue of available services:

Program Description

Independent living services offer a range of payment and nonpayment related services to individuals who require advice or assistance to support effective functioning within their home or the household of another.

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Services not Covered by Home Help

Home help services must **not** be approved for the following:

- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

ASM 101, 12-1-2013, pp 1, 2, 4, 5.

ASM 170 (5-1-2013) addresses the issue of case closures:

Notification of the Negative Action

When home help services are terminated, suspended or reduced for **any** reason, a DHS-1212, Advance Negative Action Notice, must be generated in **ASCAP** and sent to the client advising of the negative action and explaining the reason for the action; see ASM 150, Notification of Eligibility to determine need for 10 business day notice of action.

ASM 170, 5-1-2013, pp 1, 2.

ASM 150 (5-1-2013) addresses the issue of notification of eligibility determinations:

Written Notification of Disposition

All notifications are documented under ASCAP contacts when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter includes an explanation of the procedures for requesting an administrative hearing.

Advance Negative Action Notice (DHS-1212)

The DHS-1212, Advance Negative Action Notice, is used and generated on ASCAP when there is a reduction, suspension or termination of services. Appropriate notations must be entered in the comment section to explain the reason for the negative action.

- Reduced - decrease in payment.
- Suspended - payments stopped but case remains open.
- Terminated - case closure.

Negative Actions Requiring Ten Day Notice

The effective date of the negative action is ten business days **after** the date the notice is mailed to the client. The effective date must be entered on the negative action notice.

Negative Actions Not Requiring Ten Day Notice

The following situations **do not** require the ten business day notice on negative actions:

- The department has factual confirmation of the death of the client (negative action notice must be mailed to the guardian or individual acting on the client's behalf) or death of the service provider.

Note: Cases should remain open until all appropriate payments have been issued.

- The department receives a verbal or written statement from the client, stating they no longer want or require services, or that they want services reduced.

Note: This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

- The department receives a verbal or written statement from the client that contains information requiring a negative action. The statement must acknowledge the client is aware the negative action is required and they understand the action will occur.

Example: A home help services client informs the specialist that they are engaged and will be married on a specific date. They also acknowledge that their new spouse will be responsible for meeting their personal care needs and they will no longer qualify for home help services.

Note: This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

ASM 150, 5-1-2013, pp 1-4.

ASM 170 (5-1-2013) addresses the issue of notification of reopening a services case:

Reopening a Services Case

If a case has closed and reopens within 90 days, a new DHS-390, Services Application and DHS-54A, Medical Needs form are **not** required.

In ██████████, the Department suspended the Appellant's HHS case without providing the Appellant any notice of the suspension. Although the Department argued vigorously that there was no suspension of benefits, there is nothing to indicate the benefits were not suspended. There is no denying the fact the Appellant stopped receiving payments and according to ASM 150, if the case is open, and the client stops receiving payments, this is considered a suspension of benefits. And when there is a suspension of benefits, ASM 150 and ASM 170 requires an advance negative action notice be sent to the Appellant regarding the suspension.

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The notice is to provide the Appellant with an opportunity to appeal the negative action as well as put the Appellant on notice of any pending negative actions. Without the notice, the Appellant is in the dark and does not have the ability to rectify/address any pending issues/actions.

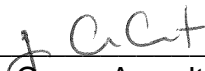
Therefore, based on the evidence presented, I find, the Department improperly suspended the Appellant's HHS benefits as policy requires an advance negative action notice be issued when a suspension of benefits occurs.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly suspended the Appellant's HHS payments.

IT IS THEREFORE ORDERED THAT:

1. The Department's decision is **REVERSED**.
2. The Department is ordered to reopen the Appellant's HHS case with an effective date of [REDACTED] and issue retroactive benefits if otherwise eligible and qualified.



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

CAA [REDACTED]

Date Signed: January 21, 2016

Date Mailed: January 21, 2016

cc: [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.