

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 15-015788 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. Appellant's Legal Guardian, ██████████, also appeared and testified. ██████████, Appeals Review Officer; ██████████, Adult Services Supervisor; and ██████████, Adult Services Specialist 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 is a Medicaid beneficiary, who was receiving HHS benefits.
2. Appellant alleges as disabling impairments: closed head injury, seizures, epilepsy, diabetes, neuropathy, Chronic Obstructive Pulmonary Disease, Coronary Artery Disease, narcolepsy, sleep apnea.
3. Appellant was receiving HHS for assistance with bathing, grooming, dressing, toileting, transferring, medication, housework, laundry, shopping and meal preparation.
4. Appellant's case was due for HHS review and redetermination in ██████████
██████████.
5. On ██████████, the caseworker sent Appellant notice that a six month home visit for HHS review would be conducted on ██████████

- [REDACTED].
6. On [REDACTED], Appellant entered the hospital and was in the hospital on [REDACTED].
 7. On [REDACTED], the caseworker attempted a home visit. She rang the doorbell but no one came to the door.
 8. On [REDACTED] the caseworker sent Appellant a Negative Action letter notifying Appellant to contact the caseworker to reschedule the appointment by [REDACTED].
 9. On [REDACTED], the Department sent Appellant a second Negative Action Notice that her HHS payments would be suspended because provider logs had not been turned in.
 10. Appellant contacted the caseworker to reschedule and they had an altercation on the telephone. The caseworker terminated the call because Appellant was agitated and yelling.
 11. The case was closed on [REDACTED] because Appellant had not rescheduled the HHS appointment.
 12. In [REDACTED], appellant contacted the caseworker who told her that the case was closed and that Appellant would have to request a hearing.
 13. On [REDACTED], Appellant filed a request for a hearing to contest the Department's negative action.
 14. On [REDACTED], this case was convened for a hearing. Appellant's daughter, Sonya Scheuermann also appeared and testified on Appellant's behalf. Appellant became agitated during the hearing and began screaming hysterically. The caseworker had to be sent from the room.
 15. On [REDACTED], Administrative Law Judge Landis Y. Lain determined that Appellant has a Legal Guardian and adjourned the hearing; to be reset after notification of the Legal Guardian, since Appellant has been determined to be legally incompetent.
 16. On [REDACTED], the hearing was reconvened.

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 she came to the home for the home visit and Appellant was not at home. The Appellant called her later but was agitated and the caseworker terminated the call. Appellant contacted the caseworker in [REDACTED]. The caseworker stated that the call was again a negative experience and she told Appellant to request a hearing and re-apply for benefits. The caseworker again terminated the telephone call because of Appellant's agitation.

Appellant testified at the hearing that she has a closed head injury and that the case worker is a liar. She testified that she called the caseworker and the caseworker told Appellant that it was too cold to come to her house but they would reschedule when the weather got warmer. Appellant testified that she wants a new caseworker and that she needs the services. She was constantly trying to contact the Department but no one would get back with her.

This Administrative Law Judge finds that the Department representative provided detailed, credible evidence and testimony that the caseworker followed Department policy and procedure when she attempted to conduct a required home visit for purposes of HHS redetermination. This Administrative Law Judge finds that Appellant conceded

on the record that she was not at home for the home visit on the date the caseworker came to the home. There is no requirement in policy that Appellant must be given a second opportunity to conduct the in-home assessment. In this case, Appellant was in the hospital on the day the home visit was scheduled. She had good cause for her failure to attend the home visit and was given the opportunity to comply with Department policy but all of her contact with the caseworker was hostile and belligerent. There was no testimony given at the hearing that the Department knew of the Appellant's Legal status at the time of the in home re-assessment. However, since Appellant does have a Legal Guardian, to whom the Department failed to send notice of any negative action, this Administrative Law Judge will determine that the request for a hearing was timely under the circumstances and proceed to make a determination on the merits of the case. Appellant did receive actual and timely notice that her case would be cancelled if she did not reschedule the in-home assessment and she did receive notice that if she did not turn in logs, her chore provider would not be paid.

Although the Appellant testified that she called and spoke to the worker in a timely manner, this does not change the fact that the HHS case can be closed after the expiration of the certification period if a review has not been conducted. The prior review had been conducted in [REDACTED]. The certification period ended [REDACTED]. The case was closed [REDACTED]. Though the facts are quite convoluted in this case, the result remains that Appellant was given notice of home visit that she was subsequently not available for when the caseworker came to the home for the visit. The second home visit was not rescheduled because of the conflict between Appellant and the caseworker. The worker was unable to complete the HHS in home assessment before the certification period ended.

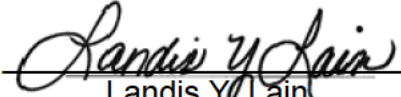
Home Help Services cannot be authorized prior to completing a face-to-face assessment with the client. Appellant was not available for the home visit and did not establish credibly that she rescheduled the home visit and was available for the rescheduled home visit. The Department has established by 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 visits, that she failed to reschedule her home visit and that she did not provided care logs in a timely manner. The Department's decision to cancel Appellant's HHS case 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 denied the Appellant's HHS case 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: January 12, 2016

Date Mailed: January 13, 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.