

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

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 15-018509 HHS
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant, represented by his cousin ██████████, appeared and testified on his own behalf. ██████████, Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). ██████████, Adult Services Worker, appeared as a witness for the Department.

ISSUE

Did the Department properly close Appellant's home help services because the Appellant's physician did not certify a medical need 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 ██████-year-old Medicaid beneficiary, born ██████████. (Dept Ex. A, p 9).
2. Appellant has been receiving Home Help Services (HHS) at all times pertinent to this case. (Dept Ex. A, p 2).
3. On ██████████, the Adult Services Worker sent an Advance Negative Action Notice to Appellant informing his that his home help services would be terminated effective ██████████. (Dept Ex. A, p 5).
4. Policy provides that persons cannot receive HHS without certification of medical need. (Dept Ex. A, p 14; Testimony)

5. Appellant credibly testified that he dropped off the certification of medical need at his physician's office and the physician was supposed to send the Department a certificate of medical need. Appellant stated he never received a copy of the certificate of medical need from his doctor. (Testimony).
6. On ██████████, Michigan Administrative Hearing System received Appellant's Request for Hearing. (Dept Ex. 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 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 101 (12-1-2013) (hereinafter "ASM 101") describes the services available through the HHS program. ASM 101 states in part:

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.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

Services not Covered by Home Help

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

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- 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.
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive. [ASM p. 5 of 5, emphasis added].

Adult Services Manual 165 (5-1-2013) deals with Overpayment and Recoupment Process:

GENERAL POLICY

The department is responsible for correctly determining accurate payment for services. When payments are made in an amount greater than allowed under department policy, an overpayment occurs.

When an overpayment is discovered, corrective actions must be taken to prevent further overpayment and to recoup the overpayment amount. The normal ten business day notice period must be provided for any negative action to a client's services payment. An entry must be made in the case narrative documenting:

- The overpayment.

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- The cause of the overpayment.
- Action(s) taken to prevent further overpayment.
- Action(s) taken to initiate the recoupment of the overpayment.

The Department's Adult Services Worker (ASW) testified that on ██████████, she gave Appellant a Medical Needs form, which was due back to the Department on ██████████. The ASW testified that Appellant's HHS was closed on ██████████ because the Medical Needs form had not been returned.

Appellant credibly testified that he did not turn the Medical Needs form into the Department. He stated he dropped the Medical Needs form off at his doctor's office and his doctor was supposed to send the completed Medical Needs form to the Department. The Appellant did not know if the doctor had in fact sent a completed Medical Needs form to the Department and he admitted that he had not received a copy of the completed Medical Needs form from his doctor.

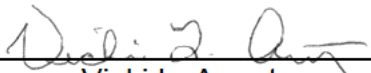
As such, given the evidence presented, the Department properly closed Appellant's HHS case for failure to timely submit the Medical Needs form indicating Appellant had certification of medical need for HHS benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's HHS application.

IT IS THEREFORE ORDERED that:

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



Vicki L. Armstrong
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: January 11, 2016

Date Mailed: January 11, 2016

VA ██████████

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cc:



***** 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