STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted],

Docket No. 15-024550 HHS
Case No. [redacted]

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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant appeared and offered testimony on his own behalf. [redacted], Appeals Review Officer, represented the Department of Health and Human Services (Department). [redacted], Adult Services Worker (ASW) appeared as a witness for the Department.

The Appellant filed a request for hearing on [redacted] as a result of not receiving Home Help Services (HHS) payments during the time period of [redacted] through [redacted].

The Social Security Act and the federal regulations which implement the Social Security Act require an opportunity for fair hearing to any recipient who believes the Department may have taken an action erroneously. *See 42 CFR 431.200 et seq.* The opportunity to fair hearing is limited by a requirement that the request be made within 90 days of the negative action. The regulations provide, in pertinent part:

> Request for hearing.
>
> (d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. *42 CFR 431.221(d).*

Because of 42 CFR 431.221(d) only allows for hearings regarding issues raised within the 90 days immediately preceding the request for hearing, it was indicated to the Appellant, that I would not be able to address the nonpayment issue from [redacted] through [redacted] but would address the nonpayment issue from [redacted] through [redacted].

ISSUE

Did the Department fail to provide HHS payments to the Appellant's Provider from [redacted] through [redacted]?

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 [redacted], the Appellant was approved for HHS. (Exhibit A, p. 14; Testimony.)

2. On [redacted], the Appellant's HHS Provider quit as he/she had found a fulltime job. (Exhibit A, p. 12; Testimony.)

3. On [redacted], the Appellant's new Provider met with the ASW and an in person face to face interview took place. The ASW indicated to the Provider that she needed to complete some paperwork and sign up on CHAMPS. (Exhibit A, p. 12; Testimony.)

4. On [redacted], CHAMPS indicated the Appellant's Provider was registered with an effective date of [redacted]. (Testimony.)

5. On [redacted], the Appellant requested a hearing. (Exhibit A, p. 4; Testimony.)

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.

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.

ASM 135, addresses Home Help Providers:

> **Provider Selection**
>
> The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers

to meet individual personal care service needs. Home help services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the adult services specialist.

Provider Interview

An initial face-to-face interview must be completed with the home help provider. A face-to-face or phone contact must be made with the provider at the six month review or redetermination to verify services are being furnished.
Explain the following points to the client and the provider during the initial interview:

- The provider is employed by the client not the State of Michigan.
- As the employer, the client has the right to hire and fire the provider.
- A provider who receives public assistance must report all income received as a home help provider to their family independence specialist or eligibility specialist.
- The client and provider are responsible for notifying the adult services specialist within 10 business days of any change in providers or hours of care.
- The provider and/or client is responsible for notifying the adult services specialist within 10 business days if the client is hospitalized.

  Note: Home help services cannot be paid the day a client is admitted into the hospital but can be paid the day of discharge.
- The provider must keep a log of the services provided on the DHS-721, Personal Care Services Provider Log and submit it on a quarterly basis. The log must be signed by both the provider and client or the client's representative.
- All earned income must be reported to the IRS; see www.irs.gov.
- No federal, state or city income taxes are withheld from the warrant.

- Parents who are caring for an adult child do not have FICA withheld.

  Note: Parents who wish to have FICA withheld must be assigned in ASCAP as other relative in the Provider Assignment screen.

- All individual providers will receive a W-2 by the Michigan Department of Community Health.

- Provider must display a valid picture identification card and social security card.

- The client and provider must sign the MSA-4676, Home Help Services Statement of Employment, before payments are authorized.

  Note: Providers determined to be a business/agency are exempt from signing the MSA-4676.

- All providers must sign a MSA-4678, Home Help Services Provider Agreement, before payments are authorized.

  Note: Providers are required to complete and sign the agreement only once. If there is a signature date on Bridges/ASCAP provider screen, another MSA-4678 does not need to be completed and signed.

Provider Enrollment

All home help providers must be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment. Once a provider is enrolled, Bridges will assign the provider a seven digit identification number. The adult services specialist must allow 24 hours from the time of enrollment for Bridges to interface with ASCAP.

ASM 135, December 1, 2013, pp 1-5 of 9.

MSA 14-58, addresses provider enrollment and service verification effective January 1, 2015.

Home Help service providers will no longer be enrolled directly into the Bridges system. Instead, providers will be enrolled into CHAMPS, and that system will interface with other necessary systems for provider information.

ASM 140, addresses Payment Authorizations:

> The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the Payments module of the ASCAP system.
>
> No payment can be made unless the provider has been enrolled in Bridges.
>
> ASM 140, May 1, 2013, p 1.

* * *

The ASW testified the case was suspended and retroactive payments were not made because the Appellant did not have a provider that was registered with the CHAMPS system during the time periods in question.

The Appellant argued neither he nor his provider were made aware of the CHAMPS registration requirement until [redacted] and that he should have been told sooner. Appellant indicated had they been made aware, registration would have occurred.

The general narratives provided by the Department does not reflect any meetings with either the Appellant or his provider between [redacted] and [redacted]. The general narratives are used to record when contacts are made with clients and what the contacts were about. Because there is no record of any meetings prior to [redacted] regarding a new provider or registration, and the fact the testimony provided by the Appellant is self-serving, I find that more likely than not, the first and only conversation regarding a new provider took place on [redacted].

Additionally, there was no reason provided as to why it took the new provider until [redacted] to register after being notified of the requirement on [redacted].

The policy is clear that payments cannot be issued until providers are registered with CHAMPS. In this case, the provider was not registered until [redacted].

Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence that the Department had erred by not issuing HHS payments from [redacted] through [redacted]. Accordingly, I find evidence to affirm the Department's actions in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied payment for HHS for the time period of [redacted] through [redacted].

IT IS THEREFORE ORDERED THAT:

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

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

CAA[redacted]

Date Mailed: February 24, 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 March 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.