



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 15-019964 HHS

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

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 Petitioner's request for a hearing.

After due notice, an in-person hearing was held on [REDACTED]. Petitioner appeared and testified on her own behalf. [REDACTED], Petitioner's niece, also testified as a witness for Petitioner. [REDACTED] [REDACTED], Appeals Review Officer, represented the Department of Health and Human Services (Department). [REDACTED] [REDACTED], Adult Services Worker (ASW) and [REDACTED], Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly deny Petitioner's Home Help Services (HHS) application?

FINDINGS OF FACT

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

1. Petitioner is a [REDACTED]-year-old Medicaid beneficiary who was referred for HHS on or about [REDACTED] (Exhibit A, pages 11-12).
2. As part of her application, Petitioner submitted a DHS-54A Medical Needs Form signed and completed by her doctor. (Exhibit A, page 21; Testimony of ASW).
3. However, the ASW assigned to her case was unable to read the date identified as the Signature Date on that medical needs form. (Testimony of ASW).

4. The ASW subsequently contacted the doctor's office about speaking to the doctor in order to confirm the date or having the doctor complete a new medical needs form. (Exhibit A, pages 15-18; Testimony of ASW).
5. The ASW also spoke with Petitioner about the ASW being unable to read the signature date and Petitioner having her doctor complete a new form. (Testimony of Petitioner; Testimony of ASW).
6. However, the ASW was unable to speak with the doctor directly. (Exhibit A, pages 14-18; Testimony of ASW).
7. Moreover, the doctor's office never submitted a new medical needs form. (Exhibit A, pages 14-18; Testimony of ASW).
8. Instead, the doctor's office resubmitted the original medical needs form. (Exhibit A, page 17; Testimony of ASW).
9. The doctor's office also subsequently submitted a copy of the original medical needs form with some additional information written over the diagnosis(es) section, but that updated form did not clarify the signature date and only contained the original signature and date. (Exhibit A, pages 21-23; Testimony of ASW).
10. On [REDACTED], the Department sent Petitioner written notice that her application for HHS was being denied because the medical needs form could not be verified. (Exhibit A, pages 7-10).
11. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding that denial. (Exhibit A, pages 4-6).

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 (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 health professional and may be provided by individuals or by private or public agencies.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to the requirements for such services, Adult Services Manual 105 (4-1-15) (hereinafter "ASM 105") provides in part:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

ASM 105, page 1

Moreover, with respect the Certification of medical need requirement, ASM 105 provides in part:

Medical Need Certification

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.

The DHS-54A or veterans administration medical form are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

ASM 105, page 3

Additionally, with respect to the required medical needs form, Adult Services Manual 115 (4-1-2015) (hereinafter “ASM 115”) states in part:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the the [sic] client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client’s need for service is related to an existing medical condition. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

If the medical needs form has not been returned, the adult services specialist should follow-up with the client and/or medical professional.

*Do **not** authorize home help services prior to the date of the medical professional signature on the DHS-54A.*

*The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is **before** the date on the DHS-390, payment for home help services must begin on the date of the application.*

Example: The local office adult services unit receives a DHS-54A signed on 1/18/2014 but a referral for home help was never made. The adult services staff enters a referral on ASCAP and mails an application to the client. The application is returned to the office with a signature date of 2/16/2014. Payment cannot begin until 2/16/2014, or later, if the provider was not working during this time period.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

*ASM 115, page 1 of 3
(Italics added for emphasis)*

Here, the Department denied Petitioner's application for HHS on the basis that not all of the necessary information in the medical needs form could be verified. In support of that decision, the ASW testified that Petitioner needs and qualifies for HHS, but that a valid medical needs form is required because services can be authorized and the ASW cannot read the date on the forms that were submitted in this case. Specifically she noted that she could not tell if the date was [REDACTED] or [REDACTED]. The ASW also testified that she both tried to work with doctor's office and get either verbal clarification of the signature date or a new form, in addition to informing Petitioner that the form must be corrected, but she never received a valid form. The ASW further testified as to the importance of having a date on the form, including the need for a date to even enter the form into the Department's computer system and the effect the date can have on the start date of services.

In response, Petitioner testified that all doctors all have bad handwriting, but that even Petitioner with her bad eyesight can read the date on this form. Petitioner also testified that she has done everything she was asked to do and is tired of fighting with the Department in both this case and in her previous application. Petitioner further testified that she cannot control what doctor sent in.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request for HHS.

Given the evidence in this case, the undersigned Administrative Law Judge finds that Petitioner has met that burden of proof and that the Department's decision must therefore be reversed. Per the above policy, Petitioner must submit a signed and dated medical needs form before services can be approved and it is undisputed that Petitioner

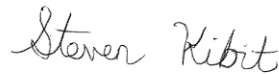
did so in this case. Moreover, while the ASW credibly testified that she cannot read the exact date on that form and distinguish whether it was [REDACTED] or 8 [REDACTED] that difficulty does not invalidate the medical needs form when it is undisputed that the form itself was submitted by an appropriate medical professional, signed, and dated. Additionally, while the specific date on the medical needs form could affect the start date of services in some cases, that would not be the situation here as whichever date on the medical needs form is chosen would precede the signature date on Petitioner's application and would therefore not be material at all as policy dictates that the date of the application would be used.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

The Department's decision is **REVERSED** and it must initiate a reassessment of Petitioner's request.



SK/db

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

[REDACTED]

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
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