

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

P.O. Box 30763, Lansing, MI 48909
(517) 373-0722; Fax: (517) 373-4147

IN THE MATTER OF:

MAHS Docket No. 15-018358 HHS

████████████████████

████████████████████

████████████████████

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 Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████ Appellant appeared on her own behalf, accompanied by her husband, and testified. ██████████ Appeals Review Officer, represented the Department. ██████████ Adult Services Worker (ASW), appeared as the witness for the Department.

ISSUE

Did the Department properly terminate Appellant from the Home Help Services (HHS) program?

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. On ██████████, the ASW visited Appellant's home to conduct an initial assessment. During the assessment, Appellant did not speak. Appellant's husband and legal guardian informed the ASW that
3. his wife has been diagnosed with paranoid schizophrenia and she was not speaking. (Dept Ex. A, Testimony).
4. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. (Adult Services Manual (ASM) 120, 12-1-2013, Page 6 of 7).

5. On ██████████, the Department sent an Advance Negative Action Notice to Appellant indicating that her HHS application would be terminated effective ██████████ because there was a responsible relative residing in the home with Appellant. (Exhibit A, p 6).
6. On ██████████ Appellant's Request for Hearing was received by the Department. (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 (ASM) 120, 12-1-2013, addresses responsible relatives:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home,

unless they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The specialist would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks.

Example: Mrs. Jones is in need of home help services. Her spouse's employment takes him out of town Monday thru Saturday. The specialist may approve hours for shopping, laundry or house cleaning.

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December 1, 2013
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The Department's ASW testified that on ██████████ she visited Appellant's home to conduct an initial assessment. During the assessment, Appellant did not speak. Appellant's husband informed the ASW that he married Appellant on ██████████. Based on this information, the ASW indicated that on ██████████ she sent an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective ██████████ because there was a responsible relative residing in the home with Appellant.

Appellant's husband testified that he cares for his mother ██████ hours a day, who also resides in the home and he needs assistance to care for his wife because he cannot care for both at the same time. Appellant's husband also stated that ██████████ referred him to the Department so Appellant should be eligible for HHS.

Appellant was advised that the ASW could only base her decision on the information he provided to her. Because he informed the ASW that he was married to Appellant and that he lived in the home, she had no choice but to terminate his HHS.

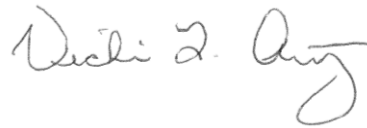
The ASW properly considered the availability and ability of Appellant's husband to provide care for Appellant based on the information given to her by Appellant's husband. The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Adult Services Glossary (ASG Glossary) 12-1-2007, Page 5 of 6. Appellant's spouse meets the definition of a responsible relative. Appellant's HHS application was properly denied based on the information available to the ASW at the time of the assessment.

DECISION AND ORDER

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

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: [REDACTED]

Date Mailed: [REDACTED]

VLA/db

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[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.