

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

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-015733 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.*, and upon Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████, Appellant's sister and home help provider, also testified as a witness for Appellant. ██████ ██████, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, testified as witnesses for the Department.

ISSUE

Did the Department properly terminate Appellant's Home Help Services?

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 who has been diagnosed with multiple sclerosis. (Exhibit A, pages 8, 10).
2. Since ██████████, Appellant has been approved for HHS through the Department. (Exhibit A, page 9).
3. Most recently, in a redetermination conducted in ██████████ ██████████ ██████████, Appellant was authorized for ██████ hour and ██████ minutes of HHS per month, with a total monthly care cost of ██████████. (Exhibit A, pages 6, 15).

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4. On [REDACTED], Appellant's ASW sent a Home Visit Letter to Appellant for a home visit/review on [REDACTED]. (Exhibit A, page 13).
5. On [REDACTED] the ASW attempted to complete the home visit, but Appellant and his provider were not present. (Exhibit A, page 13; Testimony of ASW).
6. Subsequently, the ASW and Appellant's care provider spoke on the telephone and rescheduled the visit for [REDACTED]. (Testimony of ASW).
7. On [REDACTED], the ASW attempted to complete the rescheduled home visit, but Appellant and his provider were again not present. (Exhibit A, page 14; Testimony of ASW).
8. That same day, the ASW sent Appellant written notice that his HHS would be terminated on [REDACTED] because Appellant was not at home for the second scheduled visit. (Exhibit A, pages 5-7).
9. The notice also provided that Appellant must contact the ASW before the effective date of the termination. (Exhibit A, pages 5-7).
10. Appellant failed to do so and his case was closed on [REDACTED] (Exhibit A, page 6; Testimony of ASW).
11. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the termination of Appellant's HHS. (Exhibit A, page 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 statutes, 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.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to reviews, ASM 155 (5-1-2013) provides that home help cases must be reviewed every six months:

CASE REVIEWS

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.

Six Month Review

Requirements

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.

Documentation

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.

Annual Redetermination

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.

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Here, the Department terminated Appellant's HHS pursuant to the above policy and on the basis that the Department was unable to complete the required █████ month review after Appellant and his provider failed to be present for █████ scheduled home visits. In support of that decision, the ASW testified that she sent Appellant an advance Home Visit Letter regarding an ██████████ visit, but that Appellant and his care provider were not present for that visit at the scheduled date and time. She also testified that she then spoke with Appellant's care provider and rescheduled the home visit for ██████████ but that Appellant and his provider were again not present at the rescheduled date and time. The ASW further testified that she subsequently sent Appellant written notice that his HHS would be terminated on ██████████ if Appellant failed to contact the ASW prior to that date, but that Appellant never contacted her.

In response, Appellant testified that he still needs HHS and that his medical conditions are getting worse and worse. He also testified that he was at medical appointments that could not be rescheduled when the ASW attempted the home visits. He further testified that he never advised the ASW of those appointments or tried to reschedule the home visits, but that he tried to call her after receiving the advance notice of termination and was unable to get through.

Appellant's care provider also testified that Appellant was unavailable for the scheduled home visits, but they were unable to get in touch with the ASW beforehand to reschedule because they could not get in touch with her. Appellant's care provider further testified that, on one of the days a visit was scheduled for, Appellant had a medical emergency. She likewise testified that they tried to contact the ASW after receiving the notice of termination without success.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating his HHS.

Given the record in this case, the undersigned Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the Department's decision must therefore be affirmed. The above policy expressly provides that HHS must be reviewed every █████ months and that each review requires a face-to-face contact with the client in the client's home. Here, the ASW scheduled two such reviews, one by letter and one through a conversation with Appellant's care provider, but Appellant was not present for either scheduled visit. While Appellant and his care provider testified that they missed the home visits due to either a medical appointment or a medical emergency, their testimony is unsupported and the undersigned Administrative Law Judge does not find them credible given their conflicting statements. Even if true, the testimony of Appellant and his provider would still not explain their failure to be present for either scheduled visit; advise the ASW in advance and try to reschedule when possible; or follow up with the ASW afterward about rescheduling.

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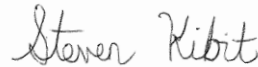
The Department has been unable to conduct the required review, despite two attempts at doing so and giving Appellant ample opportunity to reschedule. Accordingly, Appellant has failed to meet his burden of proof and the Department's decision to terminate his services must be affirmed.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [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.