

**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. 15-016881 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 her own behalf. ██████████ in, Appellant's daughter, 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 deny Appellant's request 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 who applied for HHS through the Department. (Exhibit A, page 10; Testimony of Appellant).
2. On ██████████, the ASW conducted an initial assessment in Appellant's home with Appellant. (Exhibit A, page 15).
3. At that time, Appellant provided a prescription form signed by her doctor that appeared to indicate she needed assistance. (Exhibit A, page 17; Testimony of Appellant; Testimony of ASW).

4. On ██████████, the Department received a Medical Needs form signed by Appellant's doctor on ██████████. (Exhibit A, pages 14, 16; Testimony of ASW).
5. In that form, Appellant's doctor checked "NO" when asked if he certified that Appellant was in medical need for assistance with the personal care activities listed on the form. (Exhibit A, page 16).
6. On ██████████, the Department sent Appellant written notice that her request for HHS would be denied because, among other reasons, Appellant's doctor did not certify Appellant for HHS. (Exhibit A, pages 9-13).
7. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter with respect to that denial. (Exhibit A, pages 4-8).

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.

Adult Services Manual 105 (4-1-2015) (hereinafter "ASM 105") identifies the submission of a medical needs form as among the requirements that must be met in order for an applicant to receive HHS:

GENERAL

Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened to supportive services to assist the client in applying for Medicaid.

Home help services payments cannot be authorized prior to establishing Medicaid eligibility and a face-to-face assessment completed with the client. Once MA eligibility has been established, the case service methodology **must** be changed to case management.

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 (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

* * *

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.).
- Nurse practitioner.
- Occupational therapist.
- Physical therapist.

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

ASM 105, pages 1-3

Moreover, with respect to content of 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:

Docket No. 15-016881 HHS
Decision and Order

- 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 . . .

ASM 115, page 1 of 3

Therefore, pursuant to the above policy, an applicant must provide a medical needs form completed by enrolled Medicaid provider and certifying a medical need for services in order to receive HHS.

Here, the Department denied Appellant's application after finding that Appellant's doctor did not certify a medical need for HHS on the submitted medical needs form. Instead, Appellant's doctor checked "NO" on the medical needs form when asked if he certified that Appellant was in medical need for assistance with the personal care activities listed.

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

Given the evidence and applicable policies in this case, Appellant has failed to meet her burden of proof and the Department's decision must be affirmed. While it is undisputed that Appellant provided a prescription from her doctor that appeared to prescribe services, the prescription is insufficient and the above policy expressly requires that a certification of medical need on the 54-A Medical Needs form. Moreover, while Appellant also testified that she was unable to provide a medical needs form from her doctor because the Department never provided such a form to her, the undersigned Administrative Law Judge does not find her credible on that issue given the actual medical needs form signed by Appellant's doctor that is in the record and in which the doctor did not certify a medical need for services.

Docket No. 15-016881 HHS
Decision and Order

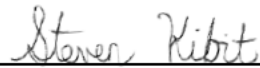
To the extent Appellant has new or updated information to provide, she may always reapply for HHS with a new medical needs form that does certify a need for HHS. With respect to the decision at issue in this case however, the Department's decision must be affirmed given the record in this case.

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 request for 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: _____

Date Mailed: _____

SK/db

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.