



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]

[REDACTED]
[REDACTED]
Agency No.: 34189404
[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], Appeals Review Officer, represented the Department of Health and Human Services (Department). [REDACTED], Adult Services Supervisor, testified as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner'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. Petitioner applied for HHS and, on [REDACTED], an Adult Services Worker (ASW) from the Department completed an initial assessment with Petitioner in Petitioner's room at the [REDACTED] in [REDACTED]. (Exhibit A, pages 18-19).
2. Petitioner subsequently informed the ASW that Petitioner was moving. (Exhibit A, page 18; Testimony of Petitioner).
3. According to Petitioner, she then moved in with some relatives, and then several times thereafter, but she kept the ASW apprised of where Petitioner was living. (Testimony of Petitioner).

4. Petitioner also indicated it was her plan to return to the [REDACTED] once her services were in place. (Testimony of Petitioner).
5. According to the ASW's subsequent case notes, Petitioner later advised her that Petitioner had not moved, but the ASW also telephoned representatives from the [REDACTED] and they confirmed that Petitioner was not living there. (Exhibit A, pages 14-18).
6. On [REDACTED], the ASW left a voicemail advising Petitioner that the ASW needed a current [REDACTED] Identification with Petitioner's current address. (Exhibit A, page 17).
7. On [REDACTED], the Department sent Petitioner a written Adequate Action Notice stating that it needed a current copy of Petitioner's [REDACTED] Identification and that failure to provide it would result in denial of her request for services. (Exhibit A, pages 6-9).
8. After the Department requested a [REDACTED] Identification, Petitioner applied to receive one. (Testimony of Petitioner).
9. However, she never received one at that time and only provided a receipt from the [REDACTED] office that indicated she had paid for one. (Testimony of Petitioner).
10. On [REDACTED], Petitioner, the ASW, and the ASW's supervisor held a meeting regarding Petitioner's application for services. (Exhibit A, page 14).
11. During that meeting, the Department again requested that Petitioner produce a [REDACTED] Identification, but Petitioner did not do so and only indicated that she was still in the process of getting one. (Exhibit A, page 14; Testimony of Petitioner).
12. That same day, the Department sent Petitioner a written Advance Negative Action Notice stating that Petitioner's services would be terminated effective [REDACTED] unless she made available a copy of her [REDACTED] Identification. (Exhibit A, pages 10-13).
13. On [REDACTED], the [REDACTED] issued an Identification Card for Petitioner. (Exhibit 2, page 1).
14. The address on that Identification Card was the address for the [REDACTED] in [REDACTED] (Exhibit B, page 1).

15. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter regarding the denial. (Exhibit A, pages 4-5).

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.

Here, Petitioner applied for HHS and the Department denied her request on the basis that Petitioner failed to provide a [REDACTED] Identification as requested by the Department.

Petitioner has appealed that denial and, in doing so, bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request.

Given the record 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.

The sole reason for the denial given in the negative action notice was that Petitioner had failed to provide a [REDACTED] Identification. However, even the Department's representative and witness both acknowledged that there is no requirement in policy that a beneficiary provide a [REDACTED] Identification in order to receive services.

Similarly, the Department also argues that it required the identification because it could not locate Petitioner and specifically needed an identification card with her current address on it in order to avoid fraud and ensure that services are properly provided. However, that argument was not identified as a basis for the action in the notice of denial and, in any event, is likewise unsupported by any specific policy and insufficient in this case. Petitioner credibly testified that she kept the ASW apprised of her moves and, while the ASW's case notes suggest otherwise, the ASW did not testify at the hearing and the unsupported notes themselves are insufficient to rebut Petitioner's testimony. Moreover, it undisputed that the Department was in constant contact with Petitioner and there is no suggestion that she had moved out-of-state.

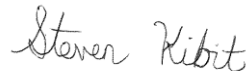
Accordingly, given the improper basis for the denial, the undersigned Administrative Law Judge finds that the Department erred and its decision must be reversed.

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 request for HHS.

IT IS, THEREFORE, ORDERED that:

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



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

DHHS Department Rep.

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

DHHS -Dept Contact

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

DHHS-Location Contact

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

Petitioner

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

Agency Representative

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