



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 5, 2016
MAHS Docket No.: 16-002025
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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, a hearing was held on [REDACTED]. Petitioner appeared on behalf of the Petitioner. [REDACTED], Appeals Review Officer; [REDACTED], Adult Services Worker; and [REDACTED], Adult Services Supervisor appeared to testify on behalf of the Department of Health and Human Services (Department or Respondent).

State's Exhibit A page 1-58 and Petitioner's Exhibit 1-8 were admitted as evidence.

ISSUE

Did the Department properly determine that Petitioner's start date for Home Help Services (HHS) was [REDACTED]?

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 Medicaid benefit recipient, date of birth [REDACTED].
2. On [REDACTED], Petitioner filed an application for HHS.
3. On [REDACTED], the Adult Services Worker (ASW) received Petitioner's case.
4. Appellant is diagnosed with Congestive Heart Failure, asthma, Chronic Obstructive Pulmonary Disease, hypertension, anxiety, gastroesophageal reflux disorder, diabetes mellitus, coronary artery disease and arthropathy.

5. On [REDACTED], the ASW sent Petitioner a letter of introduction and scheduled a home visit for [REDACTED].
6. On [REDACTED], Petitioner contacted the ASW and cancelled the home visit.
7. On [REDACTED], the ASW made a call to Petitioner in an attempt to reschedule the home visit, but there was no answer.
8. On [REDACTED], the ASW spoke to Petitioner on the telephone to notify her that the logs would be placed online.
9. On [REDACTED], the ASW made a telephone call in an attempt to schedule a home visit. The ASW left a message for Petitioner to return her call.
10. On [REDACTED], Petitioner returned the call. Petitioner notified the ASW that she wanted her son to be her provider and asked if the ASW could mail her documents because she had a lot of doctor's appointments. She asked for another day for a home visit. (State's Exhibit A page 41)
11. On [REDACTED], the ASW dropped off paperwork to Petitioner's home. Petitioner was not at home. (State's Exhibit A page 40)
12. On [REDACTED], the ASW contacted Petitioner to schedule a home visit for [REDACTED]. The Petitioner wanted a specific time for the visit. The ASW notified the Petitioner that the visit would be within the timeframe noted on the home visit letter. (State's Exhibit A page 40)
13. On [REDACTED], the ASW attempted another home visit at Petitioner's home. Petitioner did not answer the door after several knocks. The ASW left a copy of the Notice of visit at the home that she had made a home visit attempt. The ASW noted that another visit would be attempted. (State's Exhibit A page 40)
14. On [REDACTED], the ASW sent Petitioner a letter for a home call, scheduled for August 6, 2015. (State's Exhibit A page 39)
15. On [REDACTED], the ASW completed a home visit with Petitioner. Petitioner had the paperwork which the ASW had previously dropped off at her home. (State's Exhibit A page 39)
16. On [REDACTED], the ASW returned a call to the Supervisor of the Academy of America and notified him that a home visit had already been

conducted to Petitioner and that her son needed to go online and register as a provider so that a criminal background check could be processed. (State's Exhibit A page 38)

17. On [REDACTED], the ASW received an e-mail from an outside source who inquired about the status of the case and indicated that the provider has now registered on line. The ASW indicated that she would follow up to see if the provider was approved with a CHAMPS identification. (State's Exhibit A page 37)
18. On [REDACTED], the ASW conducted a search on CHAMPS for provider and could not locate the provider on CHAMPS. (State's Exhibit A page 36)
19. On [REDACTED], the provider had an official start date with the Department and payment authorization was established.
20. A review of ASCAP confirms that payment have been issued and paid from [REDACTED] forward.
21. On [REDACTED], the Michigan Administrative Hearings system received a request for a hearing from Petitioner to contest the start date of payment for HHS. (State's Exhibit A pages 5-6)
22. On [REDACTED], the ASW received a telephone call from someone from the Department of Human Services asking about Petitioner's case. The ASW left a voice mail message. (State's Exhibit A page 38)
23. On [REDACTED] the caseworker contacted [REDACTED] from the Department – Success Coach/Counselor from the [REDACTED] and indicated that the provider was still not registered with a CHAMPS identification number and that the case could not move forward without it. (State's Exhibit A page 37)
24. On [REDACTED], the ASW received an e-mail from an outside source indicating that Petitioner's provider was approved with a CHAMPS identification number. (State's Exhibit a page 37)
25. On [REDACTED], the ASW made a follow up to verify the CHAMPS identification number.
26. On [REDACTED], the ASW sent a Services and Payment approval indicating that Petitioner's provider had been approved to provide Petitioner with HHS effective [REDACTED], in the amount of

\$ [REDACTED] per month with an increase [REDACTED]. (State's Exhibit A page 30)

27. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing, protesting the the start date of HHS payments and asking for payment for from date of referral forward.

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.

Adult Services Manual 101 (12-1-2013) (hereinafter "ASM 101") addressed the issue of payment services for Home Help at the time of the denial in this case:

Payment Services for Home Help

Home Help Services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home Help Services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home Help Services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are not currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities must be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. 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.

ASM 120, page 1, specifically states:

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- **A face-to-face contact is required with the client in his/her place of residence.**
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.

The assessment must be updated as often as necessary, but **minimally** at the six month review and **annual** redetermination.

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

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

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 at least one activity of daily living (ADL).

- Appropriate Level of Care (LOC) status. ASM 105, page 1

The adult services specialist is responsible for determining the necessity and level of need for home help services based on all of the following:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. An individual must be assessed with at least one activity of daily living (ADL) in order to be eligible to receive home help services. ASM 105, page 3

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services. The adult services specialist must determine eligibility within the 45 day standard of promptness which begins from the time the referral is received and entered on ASCAP. The referral date entered on ASCAP must be the date the referral was received into the local office. The computer system calculates the 45 days beginning the day after the referral date and counting 45 calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office. ASM 110, page 1

Moreover, with respect to the authorization of payments, Adult Services Manual 140 (5-1-2013) (hereinafter "ASM 140") states:

ADULT SERVICES AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The Adult Services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges. Adult foster care, homes for the aged and home help agency providers must also be registered with Vendor Registration; see ASM 136, Agency Providers.

Note: The adult services home page provides a link to the provider enrollment instructions located on the Office of Training and Staff Development web site.

Home help services payments to providers must be:

- *Authorized for a specific period of time and payment amount.* The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
- Authorized **only** to the person or agency actually providing the hands-on services.

Note: An entity acting in the capacity of the client's fiscal intermediary is not considered the provider of home help and must not be enrolled as a home help provider; see ASM 135, Home Help Providers.

- Made payable jointly to the client and the provider.

Exception: Authorizations to home help agency providers are payable to the provider only. There are circumstances where payment authorizations to the provider only are appropriate, for example, client is physically or mentally unable to endorse the warrant. All single party authorizations must be approved by the supervisor.

- Prorate the authorization if the MA eligibility period is less than the full month. [ASM 140, page 1 of 3 (italics added).]

Pertinent DHS policy dictates:

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs. Home help services is a benefit to the client and earnings for the provider.

The determination of provider criteria is the responsibility of the adult services specialist.

*Adult Services Manual 135, page 1, ASB 2013-004,
December 1, 2013.*

All home help providers **must** be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment. Once a provider is enrolled, Bridges will assign the provider a seven digit identification number. The adult services specialist must allow 24 hours from the time of enrollment for Bridges to interface with ASCAP. *ASM 135, page 4.*

With respect to the authorization of payments, Adult Services Manual 140 (5-1-2013) (hereinafter "ASM 140") states:

ADULT SERVICES AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges. Adult foster care, homes for the aged and home help agency providers must also be registered with Vendor Registration; see ASM 136, Agency Providers.

Note: The adult services home page provides a link to the provider enrollment instructions located on the Office of Training and Staff Development web site.

Home help services payments to providers must be:

- *Authorized for a specific period of time and payment amount.* The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
- Authorized **only** to the person or agency actually providing the hands-on services.

Note: An entity acting in the capacity of the client's fiscal intermediary is not considered the provider of home help and must not be enrolled as a home help provider; see ASM 135, Home Help Providers.

- Made payable jointly to the client and the provider.

Exception: Authorizations to home help agency providers are payable to the provider only. There are circumstances where payment authorizations to the provider only are appropriate, for example, client is physically or mentally unable to endorse the warrant. All single party authorizations must be approved by the supervisor.

- Prorate the authorization if the MA eligibility period is less than the full month. [ASM 140, page 1 of 3 (italics added).]

In this case, the evidence on the record indicates that Petitioner notified the caseworker that she wanted her son to act as her provider by [REDACTED]. Petitioner would like her provider to be paid for his services from the date of referral.

The evidence on the record indicates that the Department conceded on the record that the home visit was conducted in a delayed fashion. The ASW testified that she was not able to conduct the home visit until [REDACTED]. The provider was not approved for enrollment into the program until [REDACTED], once he passed the background check. The provider was paid for services provided from [REDACTED] forward.

The Department has established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with department policy when it issued to Petitioner notice that HHS was approved with a start date of [REDACTED], once both the home visit and the all other appropriate documentation paperwork was completed and the provider enrolled in the program. The delay in start date appears to have been caused by a series cancellations of the home visit and of the registration of the provider into CHAMPS. Even if Department caused the delay, this Administrative Law Judge has no equity powers and cannot make a decision in contravention of Department policy.

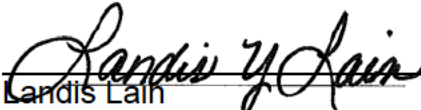
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department has established by a preponderance of the evidence that [REDACTED] was the appropriate begin date for Appellant's HHS case.

IT IS THEREFORE ORDERED THAT:

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

LL [REDACTED]


Randis Lahn

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

Petitioner

[REDACTED]

Agency Representative

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

DHHS-Location Contact

[REDACTED]