



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 25, 2016
MAHS Docket No.: 16-006841
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 July 12, 2016. Petitioner [REDACTED] appeared on behalf of the Petitioner. [REDACTED], Appeals Review Officer, [REDACTED], Adult Services Supervisor, and [REDACTED], [REDACTED] (ILS) represented the Department of Health and Human Services (Department).

State's Exhibit A pages 1-34 and Exhibit b pages 1-2 were admitted as evidence.

Petitioner requested an [REDACTED] Interpreter in his hearing request. Unfortunately, an interpreter was not provided at the hearing. Petitioner elected to continue with the hearing and stated that he understood what was taking place. The hearing was held.

ISSUE

Did the Department properly fail to pay Petitioner's 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 is currently approved for Home Help Services in the amount of 54:48 hours per month.
2. Petitioner's Home Help Services were stopped from September 2015 through March 2016.

3. Petitioner had a Medicaid spend-down of \$ [REDACTED] for the months of September 1, 2015 through December 31, 2015, \$ [REDACTED] for January 2016, \$ [REDACTED] for February 2016 and \$ [REDACTED] for March 2016.
4. On April 26, 2016, the Adult Services worker completed a redetermination assessment for Petitioner and the provider.
5. Petitioner is currently approved for 54:48 hours per month of Home Help Services.
6. On May 27, 2016, the Michigan Administrative Hearings system received a Request for Hearing to contest the suspension of HHs payment for the months of September 2015 through April 2016.

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 (ASM) 101, 12-1-13, addresses HHS payments:

Payment Services 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.

**Adult Services Manual (ASM) 101,
12-1-2013, Page 1 of 4.**

Adult Services Manual (ASM) 105, 12-1-13, addresses HHS eligibility requirements:

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.

Necessity For Service

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

- 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.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

Example: Ms. Smith is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

The client may be eligible for Medical Assistance (MA) under one of the following:

- All requirements for Medicaid have been met
- MA deductible obligation has been met

**Adult Services Manual (ASM) 105,
12-1-13, Pages 1-3 of 3**

In the instant case, Petitioner had a Medicaid spend-down which he was required to meet before he attained Medicaid eligibility. Since he did not meet his spend-down for the months of September 2015 through March 2016, he had no eligibility for Medicaid and thus, no eligibility for Home Help Services. Eligibility for Medicaid is required for eligibility for Home Help Services.

The Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Petitioner not eligible for payment for HHS benefits because he did not have eligibility for Medicaid. Eligibility for Medicaid is required before Petitioner can be eligible to receive HHS. The Department's determination must be upheld.

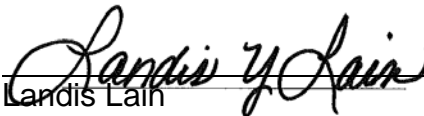
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Petitioner's HHS benefit case must be cancelled because Petitioner had no eligibility for Medicaid because he failed to meet his spend-down amount for the months of September 2015 through March 2016.

IT IS, THEREFORE, ORDERED that:

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

LL ■


Landis Lain

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]
10

Agency Representative

[REDACTED]

DHHS Department Rep.

[REDACTED]
9

DHHS -Dept Contact

[REDACTED]

DHHS-Location Contact

[REDACTED]