



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 21, 2016
MAHS Docket No.: 16-007137
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

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 19, 2016. [REDACTED] appeared on her own behalf. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly suspend the Petitioner's Home Help Services (HHS) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. As of May 24, 2016, the Petitioner was eligible for and receiving HHS benefits. (Testimony).
2. On May 24, 2016, the ASW attempted an unannounced home visit to conduct an assessment. (Testimony).
3. The May 24, 2016 unannounced assessment could not be completed. (Testimony).
4. On May 25, 2016, the ASW sent the Petitioner an Advance Negative Action notice. The notice indicated the Petitioner's HHS case was being suspended effective May 25, 2016 as the Petitioner would not cooperate with the ASW for the 6 month review. (Exhibit A, p. 6; Testimony).

5. On June 7, 2016, the Michigan Administrative Hearings System (MAHS) received the Petitioner's request for hearing. (Exhibit A, p. 8).

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.

ASM 170 (5-1-2013) addresses the issue of case closures:

Notification of the Negative Action

When home help services are terminated, suspended or reduced for **any** reason, a DHS-1212, Advance Negative Action Notice, must be generated in **ASCAP** and sent to the client advising of the negative action and explaining the reason for the action; see ASM 150, Notification of Eligibility to determine need for 10 business day notice of action.

ASM 170, 5-1-2013, pp 1, 2.

ASM 150 (5-1-2013) addresses the issue of notification of eligibility determinations:

Written Notification of Disposition

All notifications are documented under ASCAP contacts when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter includes an explanation of the procedures for requesting an administrative hearing.

Advance Negative Action Notice (DHS-1212)

The DHS-1212, Advance Negative Action Notice, is used and generated on ASCAP when there is a reduction, suspension or termination of services. Appropriate notations must be entered in the comment section to explain the reason for the negative action.

- Reduced - decrease in payment.
- **Suspended** - payments stopped but case remains open.
- Terminated - case closure.

Negative Actions Requiring Ten Day Notice

The effective date of the negative action is ten business days **after** the date the notice is mailed to the client. The effective date must be entered on the negative action notice.

Negative Actions Not Requiring Ten Day Notice

The following situations **do not** require the ten business day notice on negative actions:

- The department has factual confirmation of the death of the client (negative action notice must be mailed to the guardian or individual acting on the client's behalf) or death of the service provider.

Note: Cases should remain open until all appropriate payments have been issued.

- The department receives a verbal or written statement from the client, stating they no longer want or require services, or that they want services reduced.

Note: This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

- The department receives a verbal or written statement from the client that contains information requiring a negative action. The statement must acknowledge the client is aware the negative action is required and they understand the action will occur.

Example: A home help services client informs the specialist that they are engaged and will be married on a specific date. They also acknowledge that their new spouse will be responsible for meeting their personal care needs and they will no longer qualify for home help services.

Note: This information must be clearly documented in the general narrative of ASCAP. Written notices must be maintained in the paper case file and documented in the general narrative.

ASM 150, 5-1-2013, pp 1-4.

On May 25, 2016, the Department suspended the Petitioner's HHS case and stopped issuing HHS payments. The suspension occurred simultaneous to the Department issuing an Advance Negative Action notice to the Petitioner notifying the Petitioner of the suspension.

ASM 170 requires an advance negative action notice be sent to the Petitioner regarding a case closure. Advance Negative Action notices, must provide a ten day notice prior to the negative action going into effect.¹ The notice is to provide the Petitioner with an opportunity to continue receiving benefits up through the appeal process as long as the Petitioner timely requests a hearing before the effective date of the notice. In this case, the Petitioner was deprived of that ability as the effective date was the same date the notice was generated and sent to the Petitioner.

Therefore, based on the evidence presented, I find, the Department improperly suspended the Petitioner's HHS case as policy requires at least a 10 day notice period and that did not occur in this case.

¹ ASM 170 allows for negative actions that do not require a ten day notice period as long as certain situations are met. In this case, none of those situations applied.

DECISION AND ORDER


The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that

IT IS, THEREFORE, ORDERED that:

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

The Department is ordered to unsuspend the Petitioner's HHS case with an effective date of March 25, 2016 and issue benefits if otherwise eligible and qualified.

CA ■



Corey Arendt
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

[REDACTED]

Agency Representative

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]

Petitioner

[REDACTED]