



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 12, 2016  
MAHS Docket No.: 16-000018  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** [REDACTED]

**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 did not appear. Petitioner's Authorized Hearings representative and Guardian, [REDACTED] appeared and testified on behalf of the Petitioner. [REDACTED], Appeals review Officer; J [REDACTED], Adult Services Specialist; and [REDACTED] Adult Services Supervisor appeared and testified on behalf of Respondent Department of Health and Human Services (Department or State or Respondent).

State's Exhibit A pages 1-26 were admitted as evidence.

**ISSUE**

Did the Department properly determine that Petitioner was not eligible 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 was a HHS benefit recipient, date of birth [REDACTED].
2. On [REDACTED], the Department received referral for HHS for Petitioner.

1. Petitioner is diagnosed with end stage renal disease, hypertension, arthritis, dementia, anxiety, ESRD I & D (incision and drainage), hairline fracture right hip. (State's Exhibit A page 14)
2. On [REDACTED], the ASW completed a six month review home visit with Petitioner and the provider.
3. The ASW determined that Petitioner was entitled to 85:13 hours per month of HHS or \$ [REDACTED]. (State's Exhibit A page 17)
4. On [REDACTED], the Adult Services Worker (ASW) sent Petitioner an Advance Negative Action Notice informing her that HHS would be terminated effective [REDACTED], as the Petitioner has an unmet monthly Medicaid spend down in the amount of \$ [REDACTED].
5. On [REDACTED], the Michigan Administrative Hearing System received a Request for Hearing from Petitioner to contest the termination of payment for HHS.

### **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.

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.

*Adult Services Manual (ASM) 105, page 1*

The Code of Federal Regulations (CFR) affords a Medicaid beneficiary a right to a fair hearing when the Department takes an action that is a denial, reduction, suspension, or termination of a requested or previously authorized Medicaid covered service. *42 CFR 438.400.*

Clients with a scope of coverage 20, 2C, or 2B are not eligible for Medicaid until they have met their MA deductible obligation. Policy prevents the use of Medicaid funds to meet a beneficiary's Medicaid spend-down and has clear procedural policy to use this option.

Clients with excess income who are receiving personal care Home Help Services in their home may be eligible for ongoing MA coverage. MA coverage can be authorized or continued at the client's option provided all conditions in this Exhibit are met.

The client's option to pay a portion of his personal care cost works much the same as paying a patient-pay amount to a hospital or long-term care facility. When a client chooses this option, his services specialist subtracts his excess income from the DHS payment for personal care services. The client is then responsible for paying his excess income amount directly to his personal care provider. This ensures MA does not pay the client's liability.

Discuss this policy option with the client. Advise the client that he will be responsible for paying his excess income to his Home Help Services personal care provider. This cost may include the employer's portion of FICA taxes. The services specialist has information about what portion of the client's excess income is for the provider and what portion is for FICA taxes.

Sometimes personal care costs exceed the maximum amount services will pay. In such cases the client is responsible for the amount services will not pay. If the client chooses the policy option described in this Exhibit, he will be responsible for the amount services will not pay in addition to his excess income. Under these circumstances, this option may not be advantageous to the client.

Bridges Eligibility Manual (BEM) 545, page 22-23

Pertinent Department policy dictates:

1. The client must meet all nonfinancial eligibility factors and all financial eligibility factors **except** income.
2. The client must have an active Home Help Services case **and** be receiving personal care services in his home. Consider the services case active as soon as the services specialist begins to work with the client.  
  
The services specialist is responsible for obtaining verification of the need for personal care services and making the Home Help eligibility determination.
3. The amount DHS has or will approve for personal care services must exceed the client's excess income. Contact the services specialist for the following information:
  - The amount DHS has or will approve for personal care services.
  - The amount of personal care services required but not approved by DHS.
4. The client must agree to pay his excess income to his provider.

If **all** of the above conditions exist, income eligibility begins the month DHS reduces or will reduce its payment for personal care services by the amount of the client's excess income. The client's excess income becomes his **personal care co-payment**.

**Within two working days** of determining the client is eligible under this option, notify the services specialist in writing of the MA effective date and the amount of the client's personal care co-payment.

Income eligibility does not exist if **any** of the above conditions are not met. Return to the procedure that sent you to this Exhibit. BEM 545, pages 23-24

In the instant case, Petitioner has requested Home Help Services. Home Help Services were reduced because Petitioner lacks proper Medicaid coverage to meet eligibility criteria. HHS is a Medicaid covered service. As of yet, there has been no denial, reduction, termination, or suspension of a Medicaid covered service. The Petitioner is

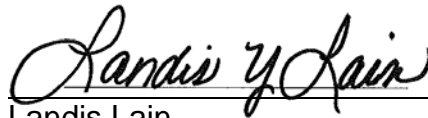
required to meet the co-pay of her deductible before Medicaid or HHS payments can begin. The department's determination to terminate Petitioner's request for HHS was in accordance with policy found in the Adult Services Manual. The Department appropriately reduced Petitioner's HHS because Petitioner had no Medicaid eligibility until Petitioner has met the Medicaid Spend-down. The Department's actions must be upheld under the circumstances.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated the Petitioner's HHS case based on the available information.

**IT IS THEREFORE ORDERED THAT:**

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



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Landis Lain  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

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**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

**Agency Representative**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]

**DHHS Department Rep.**

[REDACTED]

**DHHS -Dept Contact**

[REDACTED]

**Petitioner**

[REDACTED]

**DHHS-Location Contact**

[REDACTED]