



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: [REDACTED]
MAHS Docket No.: 16-001036
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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]. [REDACTED] caregiver and Authorized Hearing Representative (AHR), appeared on behalf of the Petitioner. [REDACTED], the Petitioner, was also present. [REDACTED], Appeals Review Officer, represented the Department of Health and Human Services (Department). [REDACTED], Adult Services Specialist, and [REDACTED], Adult Services Specialist, appeared as witness for the Department.

Petitioner's Request for Hearing was received by the Michigan Administrative Hearing System (MAHS) on [REDACTED]. On [REDACTED], MAHS issued a Notice of Hearing stating that a telephone hearing was scheduled for [REDACTED]. On [REDACTED], MAHS received an Amended Request for Hearing¹ requesting an in-person hearing. On [REDACTED], MAHS issued a Notice of Hearing stating that a telephone hearing was scheduled for [REDACTED]. On [REDACTED], MAHS issued an Amended Notice of Hearing stating that an in-person hearing was scheduled for [REDACTED].

On [REDACTED], MAHS received correspondence from Petitioner's AHR regarding MAHS' failure to appear for the [REDACTED], telephone hearing and stating that MAHS previously utilized a different precedent for rescheduling and adjournment. Since the time of Petitioner's prior appeal, MAHS has been updating the notices issued for Department appeals. Further, the

¹ Petitioner's Amended Request for Hearing also raised additional issues he wished to contest. Accordingly, additional hearings were scheduled to address these issues. Specifically, a new HHS determination made after the [REDACTED], hearing request date was scheduled to be held under MAHS docket number 16-003028. The issues relating to [REDACTED] were scheduled to be held under MAHS docket number 16-003029.

correspondence MAHS issued when Petitioner's request for an in-person hearing was granted was regrettably unclear.

During the hearing proceedings the following Exhibits were entered into the record:

- Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-31.
- Department's copy of the date stamped first page of Petitioner's Adult Services Application was admitted as Exhibit B, p. 1.
- Petitioner's document packet was admitted as Exhibits 1-22B, as marked.

During the hearing proceedings, Petitioner's AHR also raised issues relating to a prior appeal. A letter from an attorney's office to Petitioner's AHR was included in Petitioner's exhibits. In part, this letter indicates that there had been a prior appeal of a Department case action, however, that hearing request was voluntarily withdrawn. (Exhibit 3A-3B) Accordingly, there is no jurisdiction for this Administrative Law Judge (ALJ) to review any issues raised in that prior appeal.

ISSUE

Did the Department properly deny Petitioner's [REDACTED], Home Help Services (HHS) referral?

FINDINGS OF FACT

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

1. The Department received a referral for HHS for Petitioner on [REDACTED]. (Exhibit A, p. 19)
2. On [REDACTED], the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. (Exhibit A, p. 13)
3. Petitioner had 21 days to return the DHS-390 Adult Services Application, and a DHS-54A Medical Needs form to the local office. Adult Services Manual (ASM) 110, May 1, 2013, p. 1.
4. On [REDACTED], the Department issued an Adequate Negative Action Notice to Petitioner stating HHS was denied because the paperwork was not received. (Exhibit A, p. 7)

5. Petitioner submitted a DHS-390 Adult Services Application, to the local Department office on [REDACTED], which was not timely given to the assigned Adult Services Specialist or placed in Petitioner's case record. Rather, the Department found the date stamped first page of this application on [REDACTED], and forwarded it to the Adult Services Specialist assigned to a newer HHS referral to be placed in Petitioner's case record. (Exhibit 13; Adult Services Specialist Testimony)
6. Petitioner submitted a completed DHS-54A Medical Needs form to the local Department office on [REDACTED], which was not timely given to the assigned Adult Services Specialist or placed in Petitioner's case record. (Exhibit 13; Adult Services Specialist Testimony)
7. Petitioner's Request for Hearing was received by the Michigan Administrative Hearing System (MAHS) on [REDACTED].

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) 110 addresses the HHS referral process:

REFERRAL INTAKE

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.

Registration and Case Disposition Action

Complete a thorough clearance of the individual in the ASCAP client search and Bridges search.

Complete the **Basic Client** and **Referral Details** tabs of the **Client** module in **ASCAP**.

Supervisor or designee assigns case to the adult services specialist in the **Disposition** module of **ASCAP**.

Documentation

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendars days to return the documentation to the local office.

Note: The introduction letter does **not** serve as adequate notification if home help services are denied. The specialist must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

Standard of Promptness (SOP)

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.

Adult Services Manual (ASM) 110,
May 1, 2013, p. 1
(Underline added by ALJ)

In this case, the Department received a referral for HHS for Petitioner on [REDACTED]. (Exhibit A, p. 19)

On [REDACTED], the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. (Exhibit A, p. 13) Pursuant to the above cited ASM 110 policy, Petitioner had 21 days to return the DHS-390 Adult Services Application, and a DHS-54A Medical Needs form to the local office.

The Adult Services Specialist assigned to the [REDACTED], HHS referral credibly testified she never received the required paperwork for Petitioner's case. Accordingly, on [REDACTED], the Department issued an Adequate Negative Action Notice to Petitioner stating HHS was denied because the paperwork was not received. (Exhibit A, p. 7)

However, there was sufficient evidence that Petitioner timely submitted the required documentation for the [REDACTED], HHS referral. Petitioner submitted a copy of an enlarged DHS-54A Medical Needs form, with all visible portions completed, and with the local Department office date stamp showing it was received on [REDACTED]. (Exhibit 13) Further, there is sufficient evidence that Petitioner submitted a DHS-390

Adult Services Application, to the local Department office on [REDACTED]. The Department found the date stamped first page of this application on [REDACTED], and forwarded it to the Adult Services Specialist assigned to a newer HHS to be placed in Petitioner's case record. (Exhibit 13; Adult Services Specialist Testimony) Given that the Department's improper handling of documents received from Petitioner in this case, it is likely that the Department has lost the second page of the DHS-390 Adult Services Application submitted on [REDACTED].

Overall, the evidence does not support the Department's denial of Petitioner's [REDACTED], HHS referral based on the alleged failure to return the required documentation. There was sufficient evidence that Petitioner returned the required DHS-390 Adult Services Application, and a DHS-54A Medical Needs form to the local office well within the 21 day period allowed by ASM 110. However, there is no remedy that can be ordered. Petitioner has already re-applied for HHS and that application has been processed and approved.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that improperly denied Petitioner's [REDACTED], HHS referral.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **REVERSED**. However, there is no remedy that can be ordered because Petitioner's re-application for HHS has already been processed and approved.

CL/cg



Colleen Lack

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]