



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.: 16-001041
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Y. 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 telephone hearing was held on [REDACTED]. Petitioner appeared at the hearing to testify. [REDACTED], Appeals Review Officer, represented the Michigan Department of Health and Human Services (MDHHS or the Department or Respondent). [REDACTED], Adult Services Specialist; and [REDACTED], Adult Services Specialist, appeared as a witness for the Department.

State's Exhibit A, pages 1-29 was admitted as evidence.

ISSUE

Did the Department properly reduce 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 a Medicaid beneficiary, date of birth [REDACTED].
2. Petitioner was approved for HHS benefits since [REDACTED].
3. On [REDACTED], a former Department caseworker attempted a home visit with Petitioner and noted that he received no response to a telephone call or a knock on the door of the home. (State's Exhibit A page 7)
4. A home visit was scheduled for [REDACTED] between 01:30 PM and

04:30 PM. (State's Exhibit A page 14)

5. On [REDACTED], the caseworker attempted to contact Petitioner via telephone but was unsuccessful. (State's Exhibit A page 16)
6. On [REDACTED], the caseworker attempted to contact Petitioner via telephone but was unsuccessful. (State's Exhibit A page 17)
7. On [REDACTED], the Adult Services Worker sent Petitioner an Advance Negative Action Notice informing her that HHS would be terminated effective [REDACTED], due to not utilizing the services for six months.
8. On [REDACTED], Petitioner filed a Request for Hearing with the Michigan Administrative Hearing System stating that she should not be terminated from a service that she never received. (State's Exhibit A page 4)
9. Petitioner conceded on the record that she had not received HHS services within the past six months.

CONCLUSIONS OF LAW

The Medical Assistance Program 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 Social Welfare Act, 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 physician and may be provided by individuals or by private or public agencies.

Adult Services Manual (ASM) 155, pages 1-2 addresses HHS home visit requirements:

Independent living services (home help) cases must be reviewed every six months. A face-to-face contact is required with the client, in the home.

A face-to-face or phone contact must be made with the provider at six month review and redetermination to verify services are being furnished.

Note: If contact is made by phone, the provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the

client's home or local DHS office must take place at the next review or redetermination.

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.
- Verification of the client's Medicaid eligibility, when home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan, if applicable.
- Review of client satisfaction with the delivery of planned services.
- Reevaluation of the level of care to assure there are no duplication of services.
- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

Case documentation for **all** reviews must include:

- An update of the "**Disposition**" module in ASCAP.
- A review of **all** ASCAP modules with information updated as needed.
- A brief statement of the nature of the contact and who was present in the **Contact Details** module of ASCAP. A face-to-face contact entry with the client generates a case management billing.
- Documented contact with the home help provider.
- Expanded details of the contact in **General Narrative**, by clicking on **Add to & Go To Narrative** button in **Contacts** module.
- A record summary of progress in service plan.

Procedures and case documentation for the annual review are the same as the six month review, with the following addition(s):

- A new DHS-54A certification, if home help services are being paid.

Note: The medical needs form for SSI recipients and Disabled Adult Children (DAC) is **only** required at the initial opening and is not required for the redetermination process. All other Medicaid recipients will need to have a DHS-54A completed at the initial opening and annually thereafter.

- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

Petitioner conceded on the record that she had not received HHS services in the past six months because no one had come to her home to conduct an in-home visit.

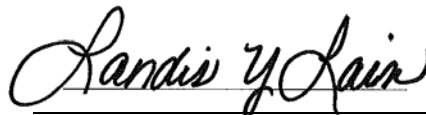
Based on the evidence as presented, the Department has established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with department policy when it issued an Advance Negative Action Notice to Petitioner stating that it was proposing to cancel Petitioner's HHS services because she had not utilized the service for six months. However, Petitioner stated on the record that no one had come to her house to do an in home assessment. Her address has not changed and her caseworker did not return her calls. The caseworker who actually worked on the file was not present at the hearing. No one present at the hearing could testify from personal knowledge as to what steps the caseworker may have made to conduct the home visit. Thus, because the Petitioner's case is still open, the Department must conduct an updated in-home assessment in accordance with policy and determine whether or not Petitioner remains eligible to receive HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department has not established by a preponderance of the evidence that it conducted an in-home assessment.

IT IS THEREFORE ORDERED THAT:

The Department's decision is to cancel Petitioner's case is **REVERSED**. The Department is ORDERD to set up an in-home visit and conduct a comprehensive assessment to determine whether or not Petitioner remains eligible to receive HHS benefits.



Landis Y. 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

DHHS

[REDACTED]

Agency Representative

[REDACTED]

Petitioner

[REDACTED]

DHHS Department Rep.

[REDACTED]

DHHS -Dept Contact

[REDACTED]