



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: February 10, 2020
MOAHR Docket No.: 19-012935
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; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on February 4, 2020. Petitioner appeared on his own behalf. John Lambert, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Julia Willis, Adult Services Supervisor; and Anita Mitchel, Adult Services Worker (ASW), appeared as witnesses for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing summary

ISSUE

Did the Department properly determine the start date of the 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. On August 5, 2019, the Department received from Petitioner, a Home Help Services application. (Exhibit A, pp 11, 19; Testimony.)
2. On August 5, 2019, the Department received a completed 54A Medical Needs Form. (Exhibit A, p 20; Testimony.)
3. On September 11, 2019, the Department sent Petitioner an initial

assessment letter. (Exhibit A, p 16; Testimony.)

4. On September 20, 2019, an assessment was performed. (Exhibit A, p 16; Testimony.)
5. On October 18, 2019, the Department sent Petitioner a services approval notice. The notice indicated Petitioner was approve for HHS effective August 5, 2019. (Exhibit A, p 5; Testimony.)
6. On December 17, 2019, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, p 4.)

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) 101, 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,
4-11-2018, p 1.*

Adult Services Manual (ASM) 115, addresses HHS adult services requirements:

The client must complete and sign a DHS 390, Adult Services Application to receive independent living services.

An authorized representative or other person acting for the client may sign the DHS-390 if the client either:

- Is incapacitated.
- Has a court-appointed guardian.

A client unable to write may sign with an X, witnessed by one other person (for example, relative or department staff). The adult services specialist **must not** sign the DHS-390 on behalf of the client.

Note: When a DHS-390 is signed by someone other than the client or guardian and received in the local office, a referral may be entered on Michigan Adult Integrated Management System (MiAIMS). The referral date must be the date the application was received in the local office, however a new DHS-390 must be obtained with proper signatures to verify the client wants the services requested.

The DHS-390 remains valid unless the case record is closed for more than 90 days.

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Physician assistant.
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

The medical needs form is only required for home help clients at the initial opening of a case, unless one of the following exists:

- The ASW assesses a decline in the client's health which significantly increases their need for services.
- The ASW assesses an improvement in the client's ability for self-care, resulting in a decrease or elimination of services and the client states their care needs have not changed.
- The current medical needs form has a specified time frame for needed services and that time frame has elapsed.

At each case review the ASW must document in the general narrative if a medical needs form is or is not needed.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services. Needed services are determined by the comprehensive assessment conducted by the Adult Services Worker.

Home help services cannot be authorized prior to the date of the medical professional's signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is before the date on the DHS-390, payment for home help services must begin on the date of the application.

Example: The local office adult services unit receives a DHS-54A signed on 07/18/2017 but a referral for home help was never made. The adult services staff enters a referral on MiAIMS and mails an application to the client. The application is returned to the office with a signature date of 08/07/2017. Payment cannot begin until 08/07/2017, or later, if the caregiver was not working during this time period or not enrolled. Refer to ASM 135 for information regarding caretaker enrollment.

Note: If the DHS 390 is received prior to a referral, the date stamp of when the application was received by the local office is used as the referral and application date.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

In this case, there was some dispute as to when the request for HHS was made. The Petitioner however failed to provide any evidence of an earlier referral date. The Department on the other hand presented pages from the application on file. Furthermore, even if the Petitioner's contention is correct in that he first requested HHS in March of 2019, the Petitioner's appeal rights regarding the disposition of this request has lapsed.¹

The policy governing this matter is straight forward. The policy requires the Department to use the latter of the application date or 54A submission date as the first date of service.

In this case, the Department is not allowed to grant HHS eligibility prior to their receipt of the 54A and/or DHS 390. Therefore, I find the Department acted accordingly in denying the Petitioner's request for an earlier effective date.

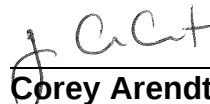
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined the effective date of Petitioner's HHS eligibility.

IT IS THEREFORE ORDERED THAT:

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

CA/sb



Corey Arendt
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

¹ See 42 CFR 431.221(d).

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI 48909

DHHS-Location Contact

Sherry Reid
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI 48933

Petitioner

[REDACTED]
MI [REDACTED]

Agency Representative

John Lambert
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