



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 9, 2020
MOAHR Docket No.: 20-001894
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 Petitioner's request for a hearing.

After due notice, a hearing was held on May 27, 2020. Petitioner appeared and testified on her own behalf. Theresa Root, Appeals Review Officer, appeared on behalf of the Respondent, Department of Health and Human Services (Respondent). Karen Madison, Adult Services Worker, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly terminate Petitioner's Home Helps 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. Petitioner is a Medicaid beneficiary, born [REDACTED], who prior to February 24, 2020, had received HHS benefits. (Exhibit A, pp 4, 8; Testimony)
2. On June 18, 2018, Petitioner married [REDACTED]. At the time of marriage, Petitioner moved into a home owned by [REDACTED] the same home [REDACTED] reported as residing at on the marriage license. (Exhibit A, p 7; Testimony)

3. On or around June 18, 2018, Petitioner reported she had moved but failed to report her marriage to [REDACTED] (Testimony)
4. On or around February 4, 2020, the ASW met with Petitioner for an in-home assessment. During the assessment, Petitioner indicated she was residing with her sister and husband [REDACTED]. During the assessment, the ASW observed wedding pictures of Petitioner throughout the home and the Petitioner presented to the ASW a copy of her marriage license. Petitioner reported her husband was not working and was not disabled. (Exhibit A, p 7; Testimony)
5. On February 10, 2020, the Department sent Petitioner a negative action notice. The notice indicated Petitioner's HHS case would be terminated effective January 31, 2020 due to responsible spouse policy. (Exhibit A, p 4; Testimony)
6. The Department extended Petitioner's HHS benefits until February 4, 2020 to allow for a proper notice and termination. (Exhibit A, p 8; Testimony)
7. On March 17, 2020, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, p 6)

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) 120, 8-1-2018, addresses responsible relatives:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other

legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The specialist would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks.¹

The ASW testified that Petitioner reported during the assessment her marriage to her husband and that she lived with him.

Petitioner testified that although she is married she never lived with her husband, moved into an address of a home he owned but was renting to her sister and that she has been separated from him since at least August 2018 and does not know where he is residing.

Although Petitioner makes these arguments, she failed to present any evidence to corroborate these self-serving claims. Petitioner's statements are hardly plausible, and it is unlikely she never at no point lived with the person she married unless there was some extenuating circumstance that was not shared. Additionally, it is confusing and fishy, that Petitioner's husband would use a residential address on his marriage license that he didn't live at.

As indicated above, ASM 120 defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Petitioner's spouse meets the definition of a responsible relative and no evidence was presented to the Department showing that Petitioner's spouse was unable or unavailable to provide care to Petitioner as of the date of action in this matter, February 24, 2020. If Petitioner's spouse is, in fact, unavailable to care for Petitioner because of a work schedule, or unable to care for Petitioner because of an illness, Petitioner will need to reapply for HHS and provide proof of that information to the ASW at the home visit. Here however, Petitioner's HHS was properly terminated based on the information available to the ASW at the time of the termination.

DECISION AND ORDER

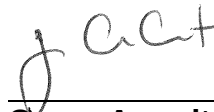
¹ Adult Services Manual 120, August 1, 2018, p 6.

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

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

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
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DHHS Department Rep.

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