



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

[REDACTED] MI [REDACTED]

Date Mailed: June 10, 2020
MOAHR Docket No.: 20-002243
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

Upon the Petitioner's March 31, 2020, hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 9, 2020, from Lansing, Michigan.

Petitioner's guardian/provider, [REDACTED] appeared for Petitioner, [REDACTED] Respondent, Department of Health and Human Services (Department), had Theresa Root, Appeals Review Officer, appear as its representative. The Department had two witnesses: Kristel Ezell, Adult Services Specialist, and Margo Peterson, Adult Services Supervisor. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 14-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly terminate 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 was a HHS recipient.
2. On February 24, 2020, the Department met with Petitioner and Petitioner's provider face-to-face in Petitioner's home to complete an assessment. During the assessment, the Department interviewed Petitioner's provider and observed Petitioner. Petitioner's provider advised the Department that Petitioner is able to

complete his activities of daily living (ADL's) with reminders and supervision. Petitioner's provider advised the Department that Petitioner is unable to complete some instrumental activities of daily living (IADL's) such as shopping and preparing meals. Petitioner's provider did not report that Petitioner had any complex care needs. The Department observed Petitioner move about his home without any assistance.

3. Based on the Department's assessment, the Department determined that Petitioner did not need hands-on assistance with any ADL's and that he did not have any complex care needs.
4. On February 25, 2020, the Department mailed a negative action notice to Petitioner to notify him that his HHS were going to be terminated effective March 10, 2020, because he did not have a need for hands-on assistance with any ADL's.
5. On March 31, 2020, Petitioner requested a hearing to dispute the termination of his 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.

In order to be eligible for HHS, an individual must have a need for service, based on a comprehensive assessment indicating a need for hands-on assistance with at least one activity of daily living (ADL) or a need for complex care. ASM 120 (February 1, 2019), p. 3. Those activities known as ADL's are eating, toileting, bathing, grooming, dressing, transferring, and mobility. *Id.* at 2. Complex care includes such care as catheters, bowel programs, specialized skin care, suctioning, range of motion exercises, wound care, respiratory treatments, and injections. *Id.* at 4.

Once an initial assessment is completed, it must be updated as often as necessary but minimally at a six-month review. *Id.* at 1. At the assessment, the Department must document the HHS client's abilities and needs to determine his or her ability to perform ADL's and IADL's. *Id.* at p. 2. If the Department determines that the client no longer has a need for HHS, then the Department must terminate the client's HHS. ASM 170 (February 1, 2019), p. 1.

In this case, Petitioner had been receiving HHS based on a need for hands-on assistance with at least one ADL. The Department met with Petitioner and his provider face-to-face in Petitioner's home to complete an assessment. During the assessment, Petitioner's provider advised that Petitioner did not need hands-on assistance with any ADL's, and the Department observed Petitioner move about his home without assistance. Based on the Department's assessment, the Department determined that Petitioner no longer had a need for HHS.

Petitioner did not present sufficient evidence to establish that the Department did not act in accordance with its policies and the applicable law. The Department's assessment supported the Department's termination of Petitioner's HHS, and Petitioner did not present any evidence to establish that the assessment was not completed properly.

DECISION AND ORDER

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

IT IS ORDERED THAT the Department's decision is **AFFIRMED**.

JK/dh



Jeffrey Kemm

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

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DHHS Department Rep.

M. Carrier
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Petitioner

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Agency Representative

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