



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: August 10, 2020
MOAHR Docket No.: 20-002801
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on June 18, 2020. ██████████, the Petitioner, appeared on his own behalf. Theresa Root, Appeals Review Officer (ARO), represented the Department of Health and Human Services (Department). Jeffrey Love, Adult Services Worker (ASW), appeared as a witness for the Department. Leigha Burghdoff, ARO, was present as an observer.

During the hearing proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly deny Petitioner's February 24, 2020, and March 18, 2020 Home Help Services (HHS) referrals?

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 February 24, 2020, the Department received an HHS referral for Petitioner. (ASW Testimony)
2. On February 24, 2020, the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. (Exhibit A, p. 7)

3. The ILS Intro Letter notified Petitioner that the due date to return the documentation to the local office was March 16, 2020. (Exhibit A, p. 7)
4. On March 18, 2020, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS referral was denied because the required DHS-54A Medical Needs form was not received by the due date. (Exhibit A, p. 8)
5. On March 18, 2020, the Department received another referral for Petitioner for the HHS program. (ASW Testimony)
6. On March 18, 2020, the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. (Exhibit A, p. 9)
7. The ILS Intro Letter notified Petitioner that the due date to return the documentation to the local office was April 8, 2020. (Exhibit A, p. 9)
8. On April 9, 2020, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS referral was denied because the required DHS-54A Medical Needs form was not received by the due date. (Exhibit A, p. 10)
9. On April 20, 2020, Petitioner's Request for Hearing was initially received by the Michigan Office of Administrative Hearings and Rules (MOAHR). The hearing request was re-submitted on May 1, 2020, with Petitioner's signature. (Exhibit A, pp. 4-6)
10. On April 21, 2020, the Department received a DHS-54A Medical Needs form for Petitioner, however, it could not be accepted because it was not completed by a Medicaid enrolled provider. (ASW Testimony)

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 for Home Help services [sic] may be received by phone, mail, fax, or in person and must be entered on Michigan Adult Integrated Management System (MiAIMS) upon receipt. The referral source does not have to be the individual in need of the services.

Registration and Case Disposition Action

Documentation

Print introduction letter, the DHS-390, Adult Services Application, and the DHS-54A, Medical Needs, form located in the Forms tab and mail to the client. The introduction letter allows the client 21 calendar 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 ASW must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

Adult Services Manual (ASM) 110,
January 1, 2018, pp. 1-2
(Underline added by ALJ)

Additionally, Adult Services Manual (ASM) 105 addresses the Eligibility Criteria and the DHS-54A Medical Needs form:

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional

limitation of level 3 or greater for at least one activity of daily living (ADL).

- Appropriate Program Enrollment Type (PET) codes.

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs, form and must be completed by a Medicaid enrolled medical professional. The medical professional must hold one of the following professional licenses:

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

The DHS-54A or veterans administration medical form are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

Adult Services Manual (ASM) 105,
January 1, 2018, pp. 1-3.

In this case, the Department received a referral for HHS for Petitioner on February 24, 2020. (ASW Testimony)

On February 24, 2020, the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. The ILS Intro Letter notified Petitioner that the due date to return the documentation to the local office was March 16, 2020. (Exhibit A, p. 7) The Department did not receive the DHS-54A Medical Needs form back by the due date. (ASW Testimony) Accordingly, on March 18, 2020, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS referral was denied because the required DHS-54A Medical Needs form was not received by the due date. (Exhibit A, p. 8)

On March 18, 2020, the Department received another referral for Petitioner for the HHS program. (ASW Testimony) On March 18, 2020, the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. The ILS Intro Letter notified Petitioner that the due date to return the documentation to the local office was April 8, 2020. (Exhibit A, p. 9) The Department did not receive the DHS-54A Medical Needs form back by the due date. (ASW Testimony) Accordingly, on April 9, 2020, the Department issued an Advance Negative

Action Notice to Petitioner stating the HHS referral was denied because the required DHS-54A Medical Needs form was not received by the due date. (Exhibit A, p. 10)

On April 21, 2020, the Department received a DHS-54A Medical Needs form for Petitioner, however, it could not be accepted because it was not completed by a Medicaid enrolled provider. (ASW Testimony)

Petitioner testified that he first applied for HHS the last week of February 2020. Petitioner waited 2-3 weeks and did not hear anything back. Then, Petitioner got the denial saying the Department did not get anything back from his doctor. Petitioner's testimony indicated he never received the February 24, 2020, introduction letter with the required forms. Petitioner started a new HHS referral. Petitioner called again and the Department said they had mailed the paperwork out. Petitioner said he had not received anything to give to his doctor. The next day Petitioner received it and gave the needed form to his doctor to complete. Petitioner then got another denial saying the Department had not gotten anything back from his doctor. Then, Petitioner's doctor sent the form in and he got a third denial, this time saying the doctor was not a Medicaid doctor. Petitioner noted that he has been with the same doctor for the last five years. This is one of the residents under Petitioner's primary doctor. Petitioner has only seen the primary doctor about twice. (Exhibit A, pp. 4-6; Petitioner Testimony)

Overall, the evidence establishes that the Department followed the above cited ASM 110 policy in denying Petitioner's February 24, 2020, and March 18, 2020, HHS referrals. The Department issued the ILS Intro Letters, DHS-390 Adult Services Applications, and DHS-54A Medical Needs forms, and gave Petitioner the 21 days specified by policy to return these forms. The evidence does not establish that the required documentation was returned within the allowed 21-day timeframe. Further, the policy requires that a Medicaid enrolled medical provider complete the DHS-54A Medical needs form. It appears that a resident, who is not a Medicaid enrolled provider, completed the form the Department received on April 21, 2020. If Petitioner's primary doctor is Medicaid enrolled, that doctor could complete the needed form or co-sign a form completed by a resident that is not a Medicaid enrolled provider. Accordingly, the Department's determination to deny Petitioner's HHS referrals is upheld.

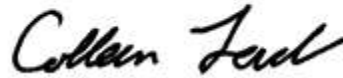
As discussed, a new referral for HHS can be made for Petitioner at any time, if needed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Petitioner's February 24, 2020, and March 18, 2020, Home Help Services (HHS) referrals.

IT IS, THEREFORE, ORDERED that:

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



CL/dh

Colleen Lack
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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

DHHS Department Rep.

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

Petitioner

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Agency Representative

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