



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: August 10, 2020
MOAHR Docket No.: 20-002939
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 25, 2020. [REDACTED] son, represented the Petitioner. Leigha Burghdoff and Emily Piggott, Appeals Review Officers (ARO), represented the Department of Health and Human Services (Department). Vernece Warren, Adult Services Worker (ASW), appeared as a witness for the Department.

During the hearing proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-31. The record was left open for Petitioner's son to fax in additional documentation. However, no additional documentation was received.

ISSUES

Did the Department properly deny Petitioner's January 29, 2020, Home Help Services (HHS) referral?

Did the Department properly determine the effective date for the approval of Petitioner's April 27, 2020, HHS referral?

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 January 29, 2020, the Department received an HHS referral for Petitioner. (Exhibit A, p. 7)

2. On January 31, 2020, the Department sent Petitioner an ILS Intro Letter, a DHS-390 Adult Services Application, and a DHS-54A Medical Needs form. (Exhibit A, pp. 9-10)
3. The ILS Intro Letter notified Petitioner that the due date to return the documentation to the local office was February 21, 2020. (Exhibit A, p. 9)
4. On January 29, 2020, the Department received a DHS-54A Medical Needs form that had multiple types of ink on it and did not have the pre-typed case related information that the form the Department sent with the introduction letter would have had. (Exhibit A, p. 11, ASW Testimony)
5. The ASW made multiple attempts to call the doctor's office to clarify the DHS-54A Medical Needs form. (ASW Testimony)
6. On March 13, 2020, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS referral was denied because the DHS-54A Medical Needs form had different types of ink on it. Multiple attempts were made to reach out to the physician to clarify the documentation. The ASW did not hear back from the physician. (Exhibit A, pp. 5-6 and 13)
7. On April 27, 2020, the Department received a new referral for Petitioner for the HHS program. (Exhibit A, p. 14)
8. On April 27, 2020, the Department received the DHS-390 application. (Exhibit A, p. 14)
9. Another DHS-54A Medical Needs form was received from Petitioner's doctor. (Exhibit A, p. 15)
10. On May 6, 2020, a home visit was completed for the initial assessment. (Exhibit A, pp. 16-17)
11. On May 7, 2020, a Services Approval Notice was issued stating HHS was approved with an effective date of April 27, 2020. (Exhibit A, p. 20)
12. On May 8, 2020, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules (MOAHR). (Exhibit A, pp. 4-6)

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) 015 addresses the DHS-54A Medical Needs form. In part, this policy states:

MEDICAL NEEDS FORM (DHS-54A)

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

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

The client or their representative 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 the actual personal care services.** The list of available services on the form is there for medical reference only.

If the medical needs form has not been returned, the adult services worker should follow up with the client and/or medical professional.

The DHS-54A must be received and certified by the medical professional before Title XIX is established as the funding source for the personal care supplement payment.

Adult Service Manual (ASM) 015
January 1, 2018, pp. 1-2

Adult Services Manual (ASM) 105 addresses the HHS requirements:

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.

Adult Service Manual (ASM) 105
January 1, 2018, p. 1

Adult Services Manual (ASM) 115 addresses Adult Services requirements:

MEDICAL NEEDS FORM (DHS-54A)

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.

Adult Service Manual (ASM) 115
January 1, 2018, pp. 1-2

On January 29, 2020, the Department received an HHS referral for Petitioner. (Exhibit A, p. 7) On January 31, 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 February 21, 2020. (Exhibit A, pp. 9-10) Further, a letter addressed to the doctor that would have been sent with the DHS-54A Medical Needs form sent with the introduction letter advises the doctor that the department may need to follow up with the doctor. (Exhibit A, p. 12; ASW Testimony)

On January 29, 2020, the Department received a DHS-54A Medical Needs form that had multiple types of ink on it and did not have the pre-typed case related information that the form the Department sent with the introduction letter would have had. (Exhibit A, p. 11, ASW Testimony) The ASW made multiple attempts to call the doctor's office to clarify the DHS-54A Medical Needs form. (ASW Testimony)

On March 13, 2020, the Department issued an Advance Negative Action Notice to Petitioner stating the HHS referral was denied because the DHS-54A Medical Needs form had different types of ink on it. Multiple attempts were made to reach out to the physician to clarify the documentation. The ASW did not hear back from the physician. (Exhibit A, pp. 5-6 and 13)

Petitioner's son testified that he helped his mother with applying for HHS. Regarding the DHS-54A Medical Needs form the Department received on January 29, 2020, Petitioner's son printed the form online, but only completed the information related to Petitioner in the top portion. Petitioner's son confirmed that the doctor completed section I. (Exhibit A, p. 11; Son Testimony) The only mistake they made was they listed Petitioner's name and address at the top where the doctor's office contact information should have been listed. (Exhibit A, p. 11) The ASW sent the form back to Petitioner's son's address with this error highlighted. Petitioner's son took the form back to the doctor's office and asked them to correct this. It was signed on February 10, 2020, and faxed back to the Department on February 11, 2020. However, Petitioner's son did not hear anything after that until April 15, 2020. Petitioner's son had called the ASW twice and emailed her. On April 27, 2020, Petitioner's son contacted a Supervisor, who told him that Petitioner's HHS referral was denied in March. Petitioner's son noted that if they had received the March denial notice, they would not have been calling the Department in April asking the status of the referral. Petitioner's son also testified that

he contacted the doctor's office, and they stated they had not gotten any calls from the Department regarding Petitioner. (Son Testimony) Further, Petitioner's son noted that the information the doctor provided on the first DHS-54A Medical Needs form was the same as what was provided on the subsequent form, which was utilized to open an HHS case for Petitioner. (Exhibit A, pp. 11 and 15; Son Testimony) Petitioner's son requested that the effective date of the approval be changed, and the Department stated that could not be done. (Son Testimony) The hearing record was left open for Petitioner's son to provide copies of the emails from his attempts to reach the Department. However, no additional documentation was received.

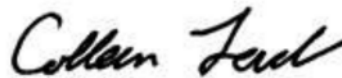
Based on the information available to the Department at the time of the March 13, 2020, case action, the determination to deny Petitioner's HHS referral was in accordance with Department policy. The only DHS-54A Medical Needs form the Department received had different inks, therefore clarification was needed from the doctor's office. The ASW credibly testified that she had attempted to reach the doctor's office but was unsuccessful. Accordingly, the denial of the January 29, 2020, HHS referral was appropriate. Regarding changing the effective date of the approval, Department policy specifies that the effective date cannot be prior to the date on the DHS-390 application. For the approved referral, Petitioner's application was received April 27, 2020. The effective date for the approval is April 27, 2020. (Exhibit A, p. 14) Accordingly, the effective date of the approval could not have been changed to anything earlier.

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 January 29, 2020, Home Help Services (HHS) referral and properly determined the effective date for the approval of Petitioner's April 27, 2020, HHS referral.

IT IS, THEREFORE, ORDERED that:

The Department's decisions are **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
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DHHS

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Petitioner

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Authorized Hearing Rep.

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