[redacted]
MI [redacted]

Date Mailed: January 11, 2021
MOAHR Docket No.: 20-007027
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on December 16, 2020. Petitioner appeared and testified on her own behalf. [redacted], Petitioner's daughter, also testified as a witness for Petitioner. Allison Pool, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Colette Dowdy, Adult Services Worker (ASW), and Julia Willis, Adult Services Supervisor, testified as witnesses for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-27. No other proposed exhibits were submitted.

ISSUE

Did the Department properly deny Petitioner's request for 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 is a [redacted] year-old Medicaid beneficiary who was approved for HHS through the Department on June 6, 2019. (Exhibit A, page 8).

2. While approved for services, Petitioner did not receive payments for HHS for every month after the Department determined that, for some months, her Medicaid was inactive, due to an unmet Medicaid deductible/spend-down, or that Petitioner was enrolled in the MI Choice Waiver Program,

and therefore could not receive HHS per policy. (Exhibit A, pages 10, 13-15).

3. With respect to the MI Choice Waiver Program, the Department's Michigan Adult Integrated Management System (MiAIMS) specifically indicated that Petitioner was enrolled in that program during the months of February, March, April, May, June, July and August of 2020. (Exhibit A, page 14).

4. On August 14, 2020, the Department further sent Petitioner advance notice that, effective October 28, 2020, Petitioner's HHS would be terminated because, per Department policy, MI Choice participants cannot receive services from both the Home Help Program and the MI Choice Waiver Program as that would be a duplication of services. (Exhibit A, page 10).

5. On August 31, 2020, Petitioner's case closed. (Exhibit A, page 8).

6. Petitioner did not request a hearing within ninety days of the notice to terminate her HHS. (Exhibit A, pages 1-27).

7. On October 2, 2020, Petitioner was again referred for HHS through the Department. (Exhibit A, page 16).

8. At the time of that referral, MiAIMS indicated that Petitioner was still enrolled in the Mi Choice Waiver Program and receiving services through the Detroit Area Agency on Aging. (Exhibit A, page 14).

9. On October 28, 2020, the Department sent Petitioner written notice that her request for HHS was denied because she was currently receiving services from the Detroit Area Agency on Aging and was therefore ineligible for services through the home help program. (Exhibit A, page 7).

10. On November 18, 2020, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter. (Exhibit A, pages 6-7).

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 statutes, 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 (4-1-2018) addresses what services are included in HHS and it provides in part:

> Home help services offer a range of payment and nonpayment related services to individuals who require advice or assistance to support effective functioning within their home or the household of another.
>
> * * *
>
> **Services not Covered by Home Help**
>
> Home help services must **not** be approved for the following:
>
> - Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
> - Services provided for the benefit of others.
> - Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.
> - Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
> - Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
> - Money management such as power of attorney or representative payee.
> - Home delivered meals.
> - Adult or child day care.
> - Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)
>
> **Note:** The above list is not all inclusive.
>
> *ASM 101, pages 1, 4-5*

Moreover, with respect to the eligibility criteria for HHS, ASM 105 (6-1-2020) provides in part:

> Home Help services are available if the client meets all eligibility requirements. The Adult Services Worker (ASW)

may open a Home Help case with supportive services methodology to assist the client in applying for Medicaid (MA), if necessary.

Home Help services payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

Requirements

Home Help eligibility requirements include all the following:

- Medicaid eligibility.
- Appropriate program enrollment type (PET) code.
- 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 Code

The program enrollment type (PET) code will indicate if the client is enrolled in other personal care programs. The PET information can be found in MiAIMS by clicking the *Check MA/PET* button; see ASM 125, Coordination with Other Services, for a list of PET codes.

ASM 105, pages 1, 3

Here, the Department denied Petitioner's request for HHS pursuant to the above policies and on the basis that Petitioner could not be approved for HHS as she was enrolled in, and receiving services, from the Detroit Area Agency on Aging pursuant to the MI Choice Waiver Program and was therefore ineligible for services through the home help program.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request for HHS. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information that was available at the time the decision was made.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must be affirmed. Services

through the Home Help Program cannot be approved for services provided by another resource at the same time, including the MI Choice Waiver Program, and the specific eligibility criteria for HHS includes an appropriate program enrollment type (PET) code, with the PET code in the Department's MiAIMS system indicating if the client is enrolled in other personal care programs. Here, Petitioner's PET code in MiAIMS has expressly and continually provided that Petitioner is enrolled in the MI Choice Waiver Program, which would prohibit her from receiving HHS. Moreover, while Petitioner denies being enrolled in the MI Choice Waiver Program, her and her provider's testimony is unpersuasive given the lack of support for their claims, despite having months to correct any errors or gather evidence, and the entries into MiAIMs each month.

To the extent Petitioner has additional or updated information to provide regarding her eligibility for services, she can always request services again in the future. With respect to the issue in this case however, the Department's decision is affirmed given the information available at the time and the applicable policies.

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 request for HHS.

IT IS, THEREFORE, ORDERED that:

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

Steven Kibit

SK/sb

Steven Kibit
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
MDHHS-HOME-HELP-POLICY@michigan.gov

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
MDHHS-Appeals@michigan.gov

Agency Representative

Allison Pool
MDHHS Appeals Section
PO Box P.O. Box 30807
Lansing , MI
48909
MDHHS-Appeals@michigan.gov

Petitioner

[redacted]
MI