[redacted]
[redacted] MI [redacted]

Date Mailed: October 1, 2021
MOAHR Docket No.: 21-003852
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; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on September 21, 2021. Petitioner appeared on her own behalf. John Lambert, Appeals Review Officer, appeared on behalf of the Respondent, the Michigan Department of Health and Human Services (Department). Kandace, Wright, Adult Services Worker (ASW), appeared as a witness for the Department. Vivian Hurst, Manager, observed the proceeding.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly deny Petitioner's Home Help Services (HHS) application?

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] (Exhibit A, p 7.)

2. Prior to [redacted] 2021, Petitioner filled out an application for HHS. The Petitioner completed the application to the best of her ability and answered each question honestly including the area of the form requesting her phone number. (Exhibit A, p 7; Testimony.)

3. In the application, Petitioner indicated her telephone number as [redacted] (Testimony.)

4. As of June 21, 2021, Petitioner had only one phone number and did not share that number with anyone else. (Testimony.)

5. On June 21, 2021, Petitioner's application for HHS was received by the Department. (Exhibit A, p 7.)

6. On June 25, 2021, the Department generated a letter to be sent to Petitioner. The letter indicated Petitioner would be called at [redacted] on Wednesday July 14, 2021, for an assessment. (Exhibit A, p 11.)

7. On July 15, 2021, the Department generated a letter to be sent to Petitioner. The letter indicated Petitioner did not answer the assessment phone call and that services would be denied. (Exhibit A, p 12.)

8. On August 23, 2021, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, p 4.)

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) 110 addresses the HHS Standard of Promptness (SOP):

> ***Standard of Promptness (SOP)***
>
> The ASW must determine eligibility within 45-day standard of promptness, which begins the day after the referral is received and entered on MiAIMS. The referral date entered on MiAIMS must be the date the referral was received in the local office. The computer system calculates 45 days beginning the day after the referral date and counting 45-calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.
>
> When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: A DHS-54A, Medical Needs form does not serve as an application for services. If the local office receives a DHS-54A as the initial request for services, a referral must be entered on MiAIMS for the date the form was received in the local office and an application mailed or given to the individual requesting services.

After receiving the assigned referral, the ASW gathers information through an assessment, contacts, etc. and decides to approve or deny the referral; see ASM 115, Adult Services Requirements.[1]

ASM 105, addresses HHS eligibility requirements:

Requirements

Home help eligibility requirements include all of 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 activities of daily living (ADL).[2]

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MDHHS-5534, Adult Services Comprehensive Assessment

The ASW must conduct a face-to-face interview with the client in their home to assess the personal care needs. During the assessment, complete the MDHHS-5534, Adult Services Comprehensive Assessment, generated from MiAIMS; see ASM 120, Adult Services Comprehensive Assessment.

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Client and Provider Contacts

[1] ASM 110, Referral Process, June 1, 2020, p 2.
[2] ASM 105, Eligibility Criteria, June 1, 2020, p 1.

> Within the Contacts module of MiAIMS, the following contact types are available:
>
> - Face-to-face.
> - Telephone
> - Miscellaneous.
> - Email.
> - Text.
> - Case conference with supervisor.
> - Narrative entry only.
>
> The ASW must document all contacts between the ASW, client, provider, and collateral contacts in MiAIMS.[3]

The ASW testified she sent Petitioner a courtesy home letter advising Petitioner that her initial in-home assessment would be held on July 14, 2021, by telephone. The ASW indicated that on July 14, 2021, she made an attempt to reach the Petitioner by telephone but was unsuccessful. As a result of the unsuccessful attempt, the ASW generated a negative action notice that indicated Petitioner's request for services was denied.

Petitioner testified in a credible manner that she never received a phone call from the ASW as alleged. Petitioner also indicated that she has had the same cell phone number for a year or so and did not share that number with anyone else. Petitioner went on to indicate that at no point in time did she change her contact number with the Department.

Based on the preponderance of the evidence, it is more likely than not that Petitioner was available for the home visit on July 14, 2021, but for some reason outside of Petitioner's control, the contact was unsuccessful. It is possible that the ASW called the wrong number as several different numbers were identified during the hearing and appear on forms generated and sent to Petitioner. As such, the Department's action was improper and must be reversed. The Department should schedule another in-home assessment with Petitioner at its earliest convenience.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly denied Petitioner's HHS application based on the available information.

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[3] ASM 115, Adult Services Requirements, September 1, 2021, p 4.

IT IS THEREFORE ORDERED THAT:

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

Within 10 days of this Order, the Department should take steps to schedule an assessment with Petitioner.

CA/dh

Corey Arendt
Administrative Law Judge
for Elizabeth Hertel, 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 3040 W. Grand Blvd., Suite L450 Detroit, MI 48202
DHHS Department Rep.	M. Carrier Appeals Section PO Box 30807 Lansing, MI 48933
Petitioner	[redacted] [redacted] MI [redacted]
Agency Representative	John Lambert MDHHS Appeals Section PO Box 30807 Lansing, MI 48909