



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: January 23, 2023
MOAHR Docket No.: 22-004966
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 January 18, 2023. Petitioner appeared and testified on her own behalf. Emily Piggott, Appeals Review Officer, appeared and testified on behalf of the Respondent Department of Health and Human Services (DHHS or Department). Juwanne Griggs, Adult Services Worker (ASW), and Julia Willis, Adult Services Supervisor, also testified as witnesses for the Department.

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 Medicaid beneficiary who was referred for HHS through the Department on September 6, 2022. (Exhibit A, page 11-12).
2. It was Petitioner's first time being referred for HHS. (Exhibit A, page 11; Testimony of Department's representative).
3. The next day, the ASW forwarded Petitioner the forms Petitioner needed to complete for her application, including a medical needs form to be completed by Petitioner's doctor. (Exhibit A, page 13; Testimony of ASW).
4. The ASW also directed Petitioner to return the forms by September 28, 2022. (Testimony of ASW).

5. On September 26, 2022, and October 14, 2022, the ASW attempted to contact Petitioner because no medical needs form had been received, but her attempts were unsuccessful. (Exhibit A, pages 12-13).
6. On October 14, 2022, the Department sent Petitioner written notice that her request for HHS was denied because not all of the required paperwork had been received. (Exhibit A, page 10).
7. On October 31, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter with respect to that denial. (Exhibit A, pages 4-10).
8. As part of her request for hearing, Petitioner included a medical needs form signed by her doctor on September 21, 2022. (Exhibit A, page 5).

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.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to the eligibility criteria for such services, ASM 105 (6-1-2020) provides in part:

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 activities of daily living (ADL).

ASM 105, page 1

Moreover, with respect to the certification of medical need requirement, ASM 105 also provides in part:

Certification of Medical Need

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 . . .

ASM 105, page 3

Additionally, with respect to the required medical needs form, ASM 015 (1-1-2018) further states in part:

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:

- Physician (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 personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

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

*ASM 015, pages 1-2
(Emphasis added)*

Here, the Department denied Petitioner's application for HHS on the basis that no medical needs form was received as part of Petitioner's application as required to approve HHS.

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.

Given the evidence in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet her burden of proof and that the Department's decision must therefore be affirmed.

The ASW credibly testified that she sent Petitioner the required forms for completing an application, including the medical needs form; no completed medical needs form was subsequently received; she tried contacting Petitioner multiple times, but could not reach her; and that, consequently, the application had to be denied. All those actions are consistent with the above policy.

Moreover, in responding to that credible testimony, Petitioner's testimony was inconsistent as to what she received from the Department, what she sent it, and when. It appears that Petitioner agrees that she did not provide the Department with a completed medical needs form until filing the request for hearing in this matter, which would be after the denial was issued, but, even if Petitioner meant to testify otherwise, her inconsistent testimony is insufficient to overcome the ASW's credible testimony.

Per the above policy, for Petitioner to be found eligible for HHS, the Department must receive a medical needs form signed by a Medicaid enrolled provider that certifies a medical need for personal care services related to an existing medical condition for Petitioner and no such form was received in this case prior the denial at issue. Accordingly, the Department properly denied Petitioner's request for HHS.

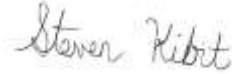
As discussed during the hearing, to the extent Petitioner needs services, then Petitioner can always reapply for HHS along with a new, complete medical needs form. With respect to the decision at issue in this case, however, the Department's decision must be affirmed.

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**.



SK/sj

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL:

Petitioner 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

Via Electronic Mail:

DHHS Department Contact

Michelle Martin
Capitol Commons
Lansing, MI 48909
MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Sherry Reid
MDHHS-Greenview Adult Services District
Wayne County, BSC-4
Detroit, MI 48219
**MDHHS-WC-
MAHSHearing@michigan.gov**

Agency Representative

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222 N Washington Square
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DHHS Department Representative

M. Carrier
Department Community Health
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Via First Class Mail:

Petitioner

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[REDACTED] MI [REDACTED]