



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 24, 2023
MOAHR Docket No.: 23-000341
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 February 22, 2023. [REDACTED] Petitioner's Grandmother and Authorized Hearing Representative, appeared on behalf of Petitioner. [REDACTED] appeared as a witness for Petitioner. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Sarah Graham, Adult Services Worker (ASW), and Lorena Frederick, Adult Services Supervisor, appeared as witnesses for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly deny the 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. On November 28, 2022, the Department received from Petitioner's father, a Medical Needs Form. The form indicated Petitioner was unable to care for his child. (Exhibit A, p 19; Testimony.)

2. On November 29, 2022, a request for HHS was made on behalf of Petitioner. At the time of the request, Petitioner was less than [REDACTED] old. (Exhibit A, p 10; Testimony.)
3. As of November 29, 2022, Petitioner was diagnosed with congenital laryngomalacia, primary central sleep apnea, and obstructive sleep apnea. (Exhibit A, p 11; Testimony.)
4. On December 12, 2022, a telephone assessment took place. During the assessment, it was indicated Petitioner was required to wear a pulse oximeter on her foot and an apnea belt on her chest that reads heart rate and respiration. (Exhibit A, p 12; Testimony.)
5. On December 22, 2022, the ASW contacted Petitioner's father on the phone. During the conversation, Petitioner's father indicated he was able to hold Petitioner in his arms, and able to bathe, dress, groom, transfer and toilet Petitioner. Petitioner's father did indicate he had not yet fed Petitioner as he does not know CPR and Petitioner chokes quite often. (Exhibit A, p 13; Testimony.)
6. On January 9, 2023, the Department sent Petitioner an Advanced Negative Action Notice. The notice indicated Petitioner's request for services was denied as the Petitioner's father was available and able to care for the Petitioner. (Exhibit A, p 8; Testimony.)
7. On January 23, 2023, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, pp 6-9.)

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) 101, April 1, 2018, addresses available services:

Home Help Services for Minor Children

When providing for minor children, personal care services must be shown to be a necessary supplement to usual parental care, justified by the high service needs of the family. High service needs are those which arise from a physical, medical, emotional, or mental impairment of the minor child and which require significantly higher levels of intervention than those required by a child of the same age without similar impairments.

Example: It is expected that a one year old child would be incontinent due to age however; a 16 year old minor would likely have a medical or cognitive condition causing incontinence.

Children typically have responsible relatives (parents/adoptive parents) able and available to provide for their care needs. When responsible relatives are unable due to a medical condition, or unavailable due to employment or school, they can hire a caregiver to perform the activities of daily living, medication administration and meal preparation required during the parent's absence. Parents cannot be the paid caregiver for their minor children.

Note: A medical needs form must provide verification the responsible relative is unable to provide care due to a medical condition. If the responsible relative is unavailable due to employment or school, they must provide a work or school schedule to verify they are unavailable to provide care.¹

The Department indicated the request for services was denied as a result of the Petitioner failing to substantiate their argument that the Petitioner's father was unable to care for Petitioner. The Department indicated the father had made statements that he was able to provide for the basic activities of daily living of the Petitioner, and the documentation provided did not address any mental health issues or other ailments that would prevent the father from providing care.

Petitioner argued the father was disabled, received Social Security Disability benefits, and suffered from short term memory loss in addition to having a low IQ. The documentation provided on application did not substantiate these statements.

In this case, my role is limited to determining whether the Department followed the applicable policies when they denied the HHS request. Based upon the fact, the

¹ Adult Services Manual 101, Available Services, April 1, 2018, p 4.

documentation provided with the 54A did not reflect the father as being unable to care for the Petitioner, so the Department had no choice but to deny the request. Therefore, I find the Petitioner's HHS request was properly denied based on the information available to the ASW at the time of the notice of negative action.

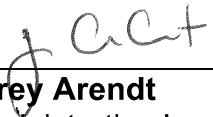
DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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

CA/pe



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

Via Electronic Mail:

DHHS Department Contact

Michelle Martin
Capitol Commons
Lansing, MI 48909
**MDHHS-Home-Help-
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Via First Class Mail:

Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]