



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: May 23, 2023
MOAHR Docket No.: 23-002175
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 and 42 CFR 431.200 *et seq.*, upon Petitioner's request for a hearing.

After due notice, a hearing was held on May 18, 2023. [REDACTED] Petitioner's Husband, appeared on behalf of Petitioner. Jaclyn Helverman, Social Worker, assisted [REDACTED] Leigha Burghdoff, Appeals Review Officer, appeared on behalf of the Respondent, the Michigan Department of Health and Human Services (Department). Theralene Howell-Daniel and Anthony Clark appeared as witnesses for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

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

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 [REDACTED], Petitioner submitted a request for HHS. (Exhibit A; Testimony.)
2. At all times relevant to this proceeding, Petitioner was married and lived with her spouse, [REDACTED] (Exhibit A; Testimony.)

3. At no point in time did Petitioner or [REDACTED] provide the Department with a completed 54-A documenting a medical reason as to why [REDACTED] was unable to provide care to his spouse (Petitioner). (Exhibit A; Testimony.)
4. On April 10, 2023, the Department sent Petitioner a negative action notice. The notice indicated Petitioner's request for HHS was being denied as Petitioner's spouse was considered a responsible relative unless there is a 54a that is certified by a proper health care professional certifying the spouse is disabled or proof the spouse is unavailable due to work or school. (Exhibit A; Testimony.)
5. On or around April 21, 2023, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A.)

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) 120, 4-1-2021, addresses responsible relatives:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by

a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general *Contacts* in MiAIMS.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The ASW would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks and is able to complete these tasks on the weekends.¹

The Department submitted evidence indicating the Petitioner was married and resided with her spouse and that there was zero documentation submitted to indicate the spouse was either unable or unavailable to provide care to the Petitioner.

The Petitioner's spouse indicated his spouse needed a lot of care. More care than what he was capable or able to provide. The Petitioner's spouse, however, did not provide a completed 54-A to verify his claims.

It was explained that Petitioner could always make a new request for services, and the spouse could provide the Department with the appropriate 54-A documenting his claims.

As indicated above, ASM 120 defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Petitioner's spouse meets the definition of a responsible relative, and no evidence was presented to the Department showing that Petitioner's spouse was unable or unavailable to provide care to Petitioner as of the date of action in this matter. Consequently, the Departments decision to deny HHS should be affirmed.

DECISION AND ORDER

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

¹ ASM 120, Adult Services Comprehensive Assessment, May 1, 2023, p 8.

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
MDHHS
Lansing, MI 48933
**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

Leigha Burghdoff
P.O. Box 30807
Lansing, MI 48909
Burghdoffl@michigan.gov

DHHS Department Representative

M. Carrier
Department Community Health
MDHHS
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]