



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]
Date Mailed: September 21, 2023
MOAHR Docket No.: 23-004730
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

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 September 20, 2023. [REDACTED] Petitioner's daughter, appeared and testified on Petitioner's behalf. [REDACTED] Petitioner, appeared as a witness. John Lambert, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Mary Gary, Adult Services Worker (ASW), and Brandi Walker, Adult Services Supervisor, appeared as witnesses for the Department.

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, who applied for HHS on [REDACTED] (Exhibit A, p 14; Testimony.)
2. On June 20, 2023, the ASW sent Petitioner a letter scheduling an in-home assessment for July 20, 2023 between the hours of 10:30 a.m. and 12:30 p.m. (Exhibit A, p 17; Testimony.) The letter instructed Petitioner to contact the ASW if that date and time did not work. (*Id.*) Petitioner did not contact the ASW. (*Id.*)
3. On July 20, 2023, the ASW went to Petitioner's home, located at [REDACTED] [REDACTED] Michigan [REDACTED] to conduct an assessment but no one answered the door. (Exhibit A, p 17; Testimony.)

4. The street name in Petitioner's address in MiAMES is listed as [REDACTED] instead of [REDACTED] (Exhibit A, pp 13-17.) The ASW indicated that when she entered [REDACTED] into her GPS on July 20, 2023, it automatically routed her to [REDACTED] (Testimony.)
5. On July 21, 2023, the ASW sent Petitioner a Negative Action Notice indicating that HHS was denied based on the inability to assess him for HHS on the scheduled date. (Exhibit A, pp 7, 18; Testimony.)
6. On August 16, 2023, Petitioner's hearing request was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, pp 5-8)

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.

The Adult Services Manual (ASM) address issues of what services are included in Home Help Services and how such services are assessed:

ASM 101 AVAILABLE SERVICES

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the home help services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities **must** be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services worker.

Home help services which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Light housecleaning.

An individual must be assessed with at least one activity of daily living (ADL) ranked 3 or higher or complex care need in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services if assessed at a level 3 or greater.

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.

*Adult Services Manual 101
April 1, 2018, pp 1-2, 5
Emphasis added*

ASM 105 ELIGIBILITY CRITERIA

GENERAL

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 at least one activity of daily living (ADL).

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:

- Physician (M.D. or D.O.).
- Physician Assistant.
- Nurse practitioner.
- Occupational therapist.
- Physical therapist.

The DHS-54A or veterans administration medical form 10-10M are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

Need For Service

The adult services worker (ASW) is responsible for determining the necessity and level of need for home help services based on all of the following:

- Client choice.
- A completed MDHHS-5534, Adult Services Comprehensive Assessment. An individual must be assessed with at least one activity of daily living (ADL) in order to be eligible to receive Home Help services.

*Adult Services Manual 105
June 1, 2020, pp 1, 3
Emphasis added*

ASM 115 ADULT SERVICES REQUIREMENTS

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.

CLIENT AND PROVIDER CONTACTS

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. The ASW must, at a minimum, have a face-to-face interview with the client, prior to case opening, and then every six months in the client's home for the review.

*Adult Services Manual 115
September 1, 2021, p 4*

ASM 120 ADULT SERVICES COMPREHENSIVE ASSESSMENT

OVERVIEW

The MDDHS-5534, Adult Services Comprehensive Assessment, is the primary tool for determining a client's need for services. The comprehensive assessment must be completed on **all open Home Help services cases**. The Michigan Adult Integrated Management System (MiAIMS), provides the format for the comprehensive assessment and all information must be entered on the computer program.

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.

- A face-to-face contact is required with the client in their place of residence.

Functional Tab

The *Functional* Tab under the *Assessment* module of MiAIMS is the basis for service planning and for the home help services payment. Document the client's abilities and needs in the *Functional* tab to determine the client's ability to perform the following activities:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking Medication.
- Meal preparation and cleanup.
- Shopping.
- Laundry.
- Light housework.

Functional Scale

ADLs and IADLs are assessed according to the following five-point scale:

1. Independent.

Performs the activity safely with no human assistance.

2. Verbal assistance.

Performs the activity with verbal assistance such as reminding, guiding or encouraging.

3. Some human assistance.

Performs the activity with some direct physical assistance and/or assistive technology.

4. Much human assistance.

Performs the activity with a great deal of human assistance and/or assistive technology.

5. Dependent.

Does not perform the activity even with human assistance and/or assistive technology.

Home help payments may only be authorized for needs assessed at the level 3 ranking or greater.

An individual must be assessed with at least one activity of daily living ranked 3 or higher or a complex care need in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services if assessed at a level 3 or greater.

*Adult Services Manual 120
April 1, 2021, pp 1-3
Emphasis added*

The ASW testified that on June 20, 2023, she sent Petitioner a letter scheduling an in-home assessment for July 20, 2023 between the hours of 10:30 a.m. and 12:30 p.m. The ASW indicated that the letter instructed Petitioner to contact the ASW if that date and time did not work, but that Petitioner did not contact the ASW. The ASW testified that on July 20, 2023, she went to Petitioner's home, located at [REDACTED] Michigan [REDACTED] to conduct an assessment but no one answered the door. The ASW indicated that the street name in Petitioner's address in MiAMES is listed as [REDACTED] instead of [REDACTED] but when she entered [REDACTED] into her GPS on July 20, 2023, it automatically routed her to [REDACTED]. Based on the above, on July 21, 2023, she sent Petitioner a Negative Action Notice indicating that HHS was denied based on the inability to assess Petitioner for HHS on the scheduled date.

Petitioner's daughter testified that she and her father understood the reason for the denial but thought maybe the ASW went to the wrong address because the address was incorrect in MiAMES.

Petitioner testified that he never goes anywhere except for the doctors and that he believes he was home on July 20, 2023 all day. Petitioner indicated that he has a camera on his porch that did not record any visitors on July 20, 2023 during the scheduled time for the assessment.

In response, the ASW again noted that she went to the correct address because her GPS routed her there as there is no street named [REDACTED] in Detroit. The ASW also noted that all the mail sent to Petitioner during this case was sent to the [REDACTED] address and none of it

was returned. The ASW also noted that Petitioner clearly received the Negative Action Notice dated July 21, 2023 because he included it with his request for hearing.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that the Department erred in denying the HHS application. Per the above policies, an HHS case cannot be opened until an in-home, face to face assessment is completed. Here, no such assessment was completed so Petitioner's HHS case could not be opened. The ASW provided credible, detailed testimony regarding her unsuccessful attempt to complete the assessment at Petitioner's home at a date and time she provided to him approximately 30 days ahead of time. Petitioner never called the ASW after receiving the June 20, 2023 letter scheduling the home visit to indicate that there was an issue with the scheduled date and time. No one answered the door when the ASW arrived during the scheduled time on July 20, 2023. And, while there was a typo in the street name of Petitioner's address in MiAMES, this did not stop the ASW from going to the correct address and it did not prevent Petitioner from receiving any mail in this matter. Accordingly, the denial of Petitioner's HHS application was proper and must be upheld.

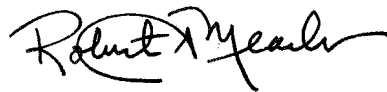
As indicated at the hearing, Petitioner can ask that a new referral for HHS be started at any time.

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 available information.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge

RM/sj

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties and/or attorneys, to their last-known addresses in the manner specified below, this 21st day of September 2023.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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Via First Class Mail:

Petitioner

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