



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



Date Mailed: December 4, 2023
MOAHR Docket No.: 23-006031
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 November 15, 2023. Toresha Lewis, Petitioner's care provider, appeared and testified on Petitioner's behalf, with Petitioner also present. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Kirsten Robinson, Adult Services Worker (ASW), testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-48. Petitioner did not submit any exhibits.

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. On July 18, 2023, Petitioner was referred for HHS through the Department. (Exhibit A, page 11).
2. In his application, Petitioner used his mother's address as his own address, but he does not live there. (Testimony of Petitioner's representative).
3. On July 20, 2023, the ASW sent Petitioner written notice that a home visit had been scheduled for August 7, 2023. (Exhibit A, page 15).
4. The notice also advised Petitioner to contact her as soon as possible if Petitioner was unavailable at that time. (Exhibit A, page 15).

5. Petitioner never contacted the ASW prior to August 7, 2023. (Testimony of Petitioner's representative; Testimony of ASW).
6. On August 7, 2023, the ASW attempted to complete the home visit at Petitioner's listed address, but he was not present and the woman who answered the door said he does not live there. (Exhibit A, page 17).
7. On August 10, 2023, the Department sent Petitioner written notice that his request for HHS had been denied because he was not available for the scheduled home visit. (Exhibit A, page 17).
8. The notice also advised Petitioner that he could reapply for services if he was still interested in them. (Exhibit A, page 17).
9. On September 20, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter with respect to that decision. (Exhibit A, pages 8-10).

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.

Regarding the eligibility criteria for HHS, Adult Services Manual (ASM) 105 (6-1-2020) states in part:

OVERVIEW

Home Help services are available if the client meets all eligibility requirements. The Adult Services Worker (ASW) may open a Home Help case with supportive services methodology to assist the client in applying for Medicaid (MA), if necessary.

Home Help services payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

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 at least one activity of daily living (ADL).

ASM 105, page 1

As described in the above policy, HHS cannot be approved for a client unless there is a need for service, as determined by a complete comprehensive assessment.

Here, the Department denied Petitioner's request for HHS after Petitioner failed to appear for the scheduled comprehensive assessment or otherwise contact the Department for rescheduling.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence, that the Department erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof, and the Department's decision must be affirmed.

As provided above, an individual is only eligible to receive HHS if he or she has a need for service based on a comprehensive assessment; and it is undisputed in this case that the Department could not find that Petitioner had such a need as Petitioner failed to appear at his listed address for the scheduled assessment, with the woman who lived there stating that Petitioner did not live there. It is also undisputed that Petitioner never contacted the ASW prior to the visit to indicate that he was unavailable and needed to reschedule.

In response, Petitioner's representative testified that Petitioner was hospitalized during June and July of 2023, which is why he did not receive mail from his mother's home; he was unavailable for the assessment; and he did not contact the Department. However, while that testimony is credible and explains Petitioner's failure to be assessed, the assessment was still required; the Department could only proceed based on the information it had; and, based on the lack of contact from Petitioner and his failure to appear at the home visit at the address he identified, the Department's decision was proper.

Petitioner's representative also testified that she should have been contacted about the scheduled home visit, but she is not Petitioner's legal guardian and, other than the request for hearing in this case providing that she can represent Petitioner at the hearing, the record is devoid of any evidence that Petitioner's representative was representing him prior or that the Department should have contacted her in addition to sending notices to the address Petitioner identified in his application.

To the extent Petitioner is still interested in HHS, then he can always request such services again in the future. With respect to the decision at issue in this case however, the Department's decision must be affirmed given the available information and applicable policies.

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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 4th day of December 2023.

S. James

S. James
**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

Agency Representative

John Lambert
MDHHS Appeals Section
Lansing, MI 48909
LambertJ4@michigan.gov

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
Detroit, MI 48219
**MDHHS-WC-
MAHSHearing@michigan.gov**

DHHS Department Representative

Mary Carrier
MDHHS Appeals Section
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Authorized Hearing Representative

[REDACTED]
[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]