



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]
[REDACTED] MI [REDACTED]

Date Mailed: December 11, 2023

MOAHR Docket No.: 23-007627

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 telephone hearing was held on December 6, 2023. Petitioner appeared and testified on her own behalf.¹ [REDACTED] neighbor and family friend appeared as a witness for Petitioner. Allison Pool, Appeals Review Officer, represented Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Tamika Walker, Adult Services Worker (ASW); and Brandi Walker, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly determine the start date for Petitioner's 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 on July 7, 2023. (Exhibit A, p 16; Testimony)
2. On July 12, 2023, Petitioner called the ASW and informed her that she would be moving in August 2023 to [REDACTED] Michigan [REDACTED]. The ASW then scheduled a home assessment for the [REDACTED] address on August 22, 2023. (Exhibit A, p 20; Testimony)

¹ Petitioner's Authorized Hearing Representative was not able to attend the hearing but Petitioner indicated that she wished to proceed representing herself.

3. A home assessment was conducted on August 22, 2023. Petitioner informed the ASW that she wished for her landlord to be her HHS provider. The ASW informed Petitioner that it was against policy for her landlord to be her provider. Petitioner indicated that she would find another provider. (Exhibit A, p 21; Testimony)
4. On August 22, 2023, the ASW issued a Services Approval Notice, which noted that Petitioner would need to find an approved provider before services and payments could begin. (Exhibit A, p 23; Testimony)
5. On October 6, 2023, Petitioner called and left a message for the ASW indicating that Petitioner wanted her aunt, [REDACTED] to be her provider. (Exhibit A, p 24; Testimony)
6. On October 18, 2023, Petitioner and [REDACTED] met with the ASW to complete the paperwork for [REDACTED] to be Petitioner's provider. (Exhibit A, p 25; Testimony)
7. On October 18, 2023, the ASW sent Petitioner a Services Approval Notice indicating that Petitioner was approved for HHS in the amount of 23 hours and 56 minutes per month, effective October 18, 2023. (Exhibit A, p 7; Testimony)
8. On October 20, 2023, the ASW completed another home assessment. (Exhibit A, p 26; Testimony)
9. There have been issues with Petitioner's provider being able to submit electronic service authorization through CHAMPS but Petitioner is approved for HHS and payments are pending in the system. (Exhibit A, pp 27-28)
10. On November 6, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (Exhibit A, pp 5-15; Testimony)

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.

Applicable policies regarding HHS can be located in various parts of the Adult Services Manual (ASM) and the Bridges Administrative Manual (BAM). For example, with respect to referrals for HHS, ASM 110 states in part:

* * *

Case Assignment and Disposition

The supervisor or their designee assigns the pending referral to the adult services worker (ASW) using the Assign Worker button under the Case Action section in MiAIMS.

Documentation

The ASW must print the introduction letter, the DHS-390, Adult Services Application, and the DHS-54A, Medical Needs form located in the Forms module and mail to the client. The introduction letter allows the client 21-calendar days to return the documentation to the local office. Note: The introduction letter does not serve as adequate notification if Home Help services are denied. The ASW must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

Standard of Promptness (SOP) The ASW must determine eligibility within the 45-day standard of promptness, which begins the day after the referral is received and entered on MiAIMS. The referral date entered on MiAIMS must be the date the referral was received in the local office. The computer system calculates 45 days beginning the day after the referral date and counting 45-calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: Verbal attestation of the DHS-390, Adult Services Application, is acceptable during the COVID-19 Public Health Emergency from 04-01-2020 through 05/11/2023.

Note: A DHS-54A, Medical Needs form does not serve as an application for services. If the local office receives a DHS-54A as the initial request for services, a referral must be entered on MiAIMS for the date the form was received in the local office and an application mailed or given to the individual requesting services.

After receiving the assigned referral, the ASW gathers information through an assessment, contacts, etc. and decides to approve or deny the referral; see ASM 115, Adult Services Requirements.

*ASM 110
May 1, 2023, p 2*

Moreover, regarding eligibility for HHS, ASM 105 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).

Medicaid Eligibility

The client may be eligible for Medicaid (MA) when either all requirements for Medicaid eligibility have been met, or the Medicaid deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

- 3G (Healthy Michigan Plan).
- 7W (MI Child).
- 8L (Flint).

Clients with a scope of coverage 20, 2C, or 2B are not eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in the Michigan Adult Integrated Management System (MiAIMS) for active services cases

*ASM 105
June 1, 2020, page 1*

With respect to decisions on applications for HHS, ASM 150 states in part:

Written Notification of Case Action

All notifications are documented in the Michigan Adult Integrated Management System (MiAIMS) Contacts module, when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter must include an explanation of the procedures for requesting an administrative hearing. The DCH-0092, Request for Hearing, notification must be generated from the Forms module in MiAIMS and sent with all negative action notices (DHS-1212A or DHS-1212).

*ASM 150
May 1, 2023, p 1*

Moreover, regarding administrative hearings and implementing decisions made following such hearings, BAM 600 states in part:

Clients have the right to contest a Michigan Department of Health and Human Services (MDHHS) decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. MDHHS provides an administrative hearing to review the decision and determine its appropriateness in accordance with policy. This item includes procedures to meet the minimum requirements for a fair hearing.

Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing.

* * *

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether MDHHS policy was appropriately applied.

* * *

Implementing the Hearing Decision

All Programs

All hearing decisions **must** be recorded in Bridges, on the Hearing Restore Benefits screen.

Some hearing decisions require implementation by the local office. Implement a decision and order within 10 calendar days of the mailing date on the hearing decision. **Do not provide a notice of case action. The hearing decision serves as notice of the action.** If implementation requires a redetermination, send a notice of case action on the redetermination action.

Implement the hearing decision pending a court appeal unless a circuit court or other court with jurisdiction issues an order requiring a stay.

BAM 600 1, 39, 42-43

As discussed above, Petitioner applied for HHS, with a referral date of July 7, 2023. On August 22, 2023, the ASW issued a Services Approval Notice, which was within the 45-day standard of promptness required by policy. However, the ASW noted that Petitioner would need to find an approved provider before services and payments could begin. On October 6, 2023, Petitioner called and left a message for the ASW indicating that Petitioner wanted her aunt, [REDACTED] to be her provider. On October 18, 2023, Petitioner and [REDACTED] met with the ASW to complete the paperwork for [REDACTED] to be Petitioner's provider. On October 18, 2023, the ASW sent Petitioner a Services Approval Notice indicating that Petitioner was approved for HHS in the amount of 23 hours and 56 minutes per month, effective October 18, 2023. There have been issues with Petitioner's provider being able to submit electronic service authorization through CHAMPS but payments are pending in the system.

In requesting a hearing, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred.

Petitioner testified that she chose to move from the [REDACTED] home because it was a flip house, not because of any mold in the house. Petitioner argued that the ASW is just trying to cover up the fact that she sat on the case from May 2023 to October 2023. Petitioner indicated that the ASW could have contacted her prior ASW to find out about her. Petitioner testified that she felt like the ASW treated her like a child. Petitioner noted that she got off HHS because she tried to go back to work for her children, but she was unable to continue working because her employer would not accommodate her disability. Petitioner indicated that instead of arguing with the ASW, she called the ASW's supervisor, and then the supervisor's supervisor. Petitioner argued that the ASW had ample opportunity to inspect her home and approve her for HHS sooner.

In response, the ASW supervisor testified that the May 2023 date Petitioner is referring to is the date her 54-A Medical Needs form was signed by her doctor. The ASW supervisor indicated that the 54-A Medical Needs form and Petitioner's application was not received until July 7, 2023.

Based on the evidence presented, Petitioner has failed to prove by a preponderance of the evidence that the Department erred in determining her start-date for HHS services. While there may have been some communication issues between Petitioner and the ASW, the ASW appears to have done her best to get Petitioner approved for HHS as soon as possible. While there was a short delay caused by Petitioner moving to a new home, Petitioner was approved for HHS in August 2023, within the 45-day standard of promptness required by policy.² However, services and payments could not begin at that time because Petitioner did not have an approved HHS provider. When Petitioner then found an approved HHS provider, the ASW met with both Petitioner and the provider and completed another home visit within a short period of time, and Petitioner was again approved for HHS. And, while there may be some ongoing payment issues with Petitioner's provider and CHAMPS, Petitioner is approved for HHS and those payments are pending. Given these facts, it cannot be said that the ASW erred in processing Petitioner's HHS application.

As such, the Department's decision was proper and should be upheld.

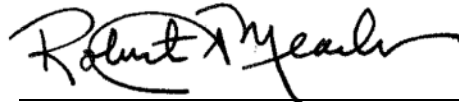
² As indicated, the referral date is the date the HHS application and 54-A Medical Needs form are received in the office, not the date the doctor signs the 54-A.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined Petitioner's HHS start-date.

IT IS THEREFORE ORDERED THAT:

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

A handwritten signature in black ink, appearing to read "Robert J. Meade", written over a horizontal line.

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, to their last known addresses in the manner specified below, this 11th day of December 2023.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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