



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: January 30, 2024
MOAHR Docket No.: 23-008339
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 January 9, 2024. Petitioner appeared and testified on her own behalf. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Monica Voltz, 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 without objection as Exhibit A, pages 1-40. 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 September 20, 2023, Petitioner was referred for HHS through the Department. (Exhibit A, page 13).
2. In her application, Petitioner wrote that she lived alone, and she identified her address as [REDACTED] MI. (Exhibit A, pages 20-21).
3. However, that address in [REDACTED] County was not where Petitioner lived alone, but where she was staying with son and daughter-in-law while she recovered from a broken arm, with Petitioner's own home in [REDACTED] County. (Testimony of Petitioner).

4. On October 27, 2023, the ASW attempted to complete the home visit at Petitioner's listed address, but Petitioner was not present at the scheduled time. (Exhibit A, page 17; Testimony of ASW).
5. The ASW and Petitioner did speak on the telephone that day, with Petitioner reporting that she lived in a different county and the ASW stating that Petitioner would need to apply for services in the county where Petitioner lived. (Exhibit A, page 17; Testimony of ASW).
6. On October 30, 2023, the Department sent Petitioner written notice that her request for HHS had been denied because Petitioner did not live in ██████ County and needed to apply in the county where she lived, *i.e.*, ██████ County. (Exhibit A, page 18).
7. On November 30, 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 8-12).

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 referral process for HHS, Adult Services Manual (ASM) 110 (5-1-2023) states in part:

OVERVIEW

Individuals may send a referral for Home Help services by phone, mail, fax, or in person and referrals must be entered on the Michigan Adult Integrated Management System (MiAIMS) upon receipt. The referral source does not have to be the individual in need of the services.

* * *

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, pages 1-2

Regarding the eligibility criteria for HHS, 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

Regarding Adult Services Requirements for HHS, ASM 115 (5-1-2023) states in part:

OVERVIEW

Home Help services are available if the client meets all eligibility requirements. The Adult Services Worker (ASW) must ensure all of the required steps in the case opening process are completed.

DHS-390, ADULT SERVICES APPLICATION

The client must complete and sign a DHS-390, Adult Services Application, to receive Home Help services. An authorized representative or other person acting for the client may sign the DHS-390 if the client either:

- Is incapacitated.
- Has a court-appointed guardian.

The date that the DHS-390 is received by the Michigan Department of Health and Human Services (MDHHS) is the application date.

A client unable to write may sign with an X, witnessed by one other person (for example, relative or department staff). The adult services worker (ASW) **must not** sign the DHS-390 on behalf of the client.

Note: If a DHS-390 is received in the local office and is signed by someone other than the client or guardian, a referral may be entered on the Michigan Adult Integrated Management System (MiAIMS). The referral date must be the date the application was received in the local office, however a new DHS-390 must be obtained with proper signatures to verify the client wants the services requested.

The date that a valid client or guardian signature is received in the local office is the application date.

The DHS-390 remains valid unless the case record is closed for more than 90 days.

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.

* * *

IMPORTANT DATES

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

The date that a valid client or guardian signature is received in the local office is the application date.

The DHS-54A, Medical Needs form does not serve as the application for services. If the signature date on the DHS-54A is **before** the DHS-390 received date, payment for Home Help services must begin on the application date.

Do not authorize Home Help services prior to the date of the medical professional's signature on the DHS-54A.

The case opening date for a Home Help case is the latter of the DHS-390 received date and the DHS-54A medical provider signature date.

Example: The local office adult services unit receives a DHS-54A signed on 07/18/2020, but a referral for Home Help had not been received yet. The adult services staff enters a referral on MiAIMS for 7/18/2020, and either mails an application to the client or sets up a home visit and brings the application to the client. The application is returned to the office on 08/07/2020. Payment cannot begin until 08/07/2020, or later, if the caregiver was not working during this period or was not enrolled in CHAMPS; see ASM 135, Home Help Caregivers.

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.

ASM 115, pages 1, 3-4

Here, the Department denied Petitioner's request for HHS pursuant to the above policies.

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.

The notice of denial in this case provided both that Petitioner's application for HHS was denied because Petitioner does not live in [REDACTED] County and that she needed to reapply for services in the county where she did live.

However, the Department failed to point to any specific policy providing that an application for HHS should be denied because it was filed in the wrong county.

Nevertheless, while the notice could have been worded better, it is clear enough and the remainder of the record demonstrates that Petitioner's faulty application in the wrong county led to the proper denial of services in this case.

As provided in ASM 115, a client must complete and sign an Adult Services Application to receive Home Help services and, while Petitioner did so in this case, that application contained incorrect information as Petitioner indicated within it that she lived alone in [REDACTED] Michigan. Petitioner, by her own testimony, did not live at that location and, even if she was temporarily staying there, she was not living there alone.

ASM 115, in addition to other policies, also requires that a comprehensive assessment be completed with clients in their home prior to HHS being approved, and no such assessment was completed in this case. Given the inaccurate information provided in Petitioner's application, the assessment was attempted at the address in [REDACTED] Michigan, but Petitioner was not present for that assessment.

Moreover, while Petitioner testified that she was only not present because she had no advance notice of the visit, the undersigned Administrative Law Judge does not find her credible on that issue given her testimony that she is not sure where she was staying at the time of the visit and that she has memory problems. Additionally, even if Petitioner had been present, it is not clear that the assessment could have been completed as Petitioner's home was elsewhere.

HHS are available if a client meets all eligibility requirements, but, due to Petitioner's actions, included filing her application in a county where she did not reside, the Department was unable to determine within the standard of promptness that Petitioner met all of those requirements and, consequently, Petitioner has failed to show that the Department erred.

To the extent Petitioner is still interested in HHS, then she can always request such services again in the future with the correct information. 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.

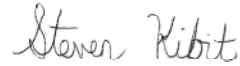
DECISION AND ORDER

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 30th day of January 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

Agency Representative

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Via First Class Mail:

Petitioner

[REDACTED]

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