



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

Date Mailed: April 5, 2024
MOAHR Docket No.: 24-000724
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on March 7, 2024¹. [REDACTED] the Petitioner, appeared on her own behalf. Leigha Klaver, Appeals Review Officer (ARO) represented the Department of Health and Human Services (Department). Stephen Atkinson, Assistance Payments Supervisor (APS) appeared as witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-55.

ISSUE

Did the Department properly terminate and deny Home Help Services (HHS) for Petitioner?

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 had an open HHS case since November 3, 2018. (Exhibit A, p. 13)

¹ Petitioner's hearing request addressed multiple programs and issues. A separate hearing was held to address the non-Home Help Services (HHS) benefits under MOAHR docket number 24-000994 and a separate hearing decision was issued for that case.

2. On November 9 and 14, 2023, the Adult Services Worker (ASW) attempted to contact Petitioner by phone and left messages to contact her for the six-month review. (Exhibit A, pp. 17-19)
3. On November 14, 2023, a Negative Action Notice was issued to Petitioner stating HHS would be terminated effective November 28, 2023. It was stated that the Department had made multiple attempts to contact Petitioner for the six-month review, and failure to complete the review would result in termination of HHS. (Exhibit A, p. 17).
4. On December 15, 2023, a Negative Action Notice was issued to Petitioner stating HHS was terminated effective December 29, 2023, because there were multiple attempts made to reach Petitioner to conduct the six-month review with no response. (Exhibit A, pp. 20-22)
5. On January 9, 2024, a new HHS referral was received for Petitioner. (Exhibit A, p. 24)
6. On January 17, 2024, February 13, 2024, and February 21, 2024, the ASW attempted to contact Petitioner by phone and left messages to contact her to schedule an initial assessment for her HHS referral. (Exhibit A, p. 27)
7. On February 1, 2024, Petitioner requested a hearing contesting the Department's determinations. (Exhibit A, pp. 9-12)
8. On February 22, 2024, a Negative Action Notice was issued to Petitioner stating HHS would not be authorized and noted that several attempts were made to contact Petitioner to schedule a home visit. (Exhibit A, pp. 28-30)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 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 health professional and may be provided by individuals or by private or public agencies.

The Department has a 45-day standard of promptness to determine eligibility for HHS, which begins the day after the HHS referral is received. ASM 115, May 1, 2023, p. 1.

HHS payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. ASM 105, June 1, 2020, p. 1.

HHS eligibility requirements include a 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, June 1, 2020, p. 1.

The ASW must conduct a face-to-face interview with the client in their home to assess the personal care needs. During the assessment, the ASW is to complete the MDHHS-5534, Adult Services Comprehensive Assessment. ASM 115, May 1, 2023, p. 4.

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. ASM 115, May 1, 2023, p. 5.

Requirements for the comprehensive assessment include, but are not limited to, a comprehensive assessment being completed on all new cases and a face-to-face contact is required with the client in their place of residence. ASM 120, May 1, 2023, p. 1. The assessment must be updated as often as necessary, but minimally, at the six-month review. ASM 120, May 1, 2023, p. 1.

In this case, the ASW attempted to contact Petitioner by phone and left messages to contact her for the six-month review on November 9 and 14, 2023. (Exhibit A, pp. 17-19). On November 14, 2023, a Negative Action Notice was issued to Petitioner stating HHS would be terminated effective November 28, 2023. It was stated that the Department had made multiple attempts to contact Petitioner for the six-month review, and failure to complete the review would result in termination of HHS. (Exhibit A, p. 17). On December 15, 2023, a Negative Action Notice was issued to Petitioner stating HHS was terminated effective December 29, 2023, because there were multiple attempts made to reach Petitioner to conduct the six-month review with no response. (Exhibit A, pp. 20-22).

On January 9, 2024, a new HHS referral was received for Petitioner. (Exhibit A, p. 24). On January 17, 2024, February 13, 2024, and February 21, 2024, the ASW attempted to contact Petitioner by phone and left messages to contact her to schedule an initial assessment for her HHS referral. (Exhibit A, p. 27). On February 22, 2024, a Negative Action Notice was issued to Petitioner stating HHS would not be authorized, and that several attempts were made to contact Petitioner to schedule a home visit. (Exhibit A, pp. 28-30).

Petitioner noted that the ASW assigned to her HHS case/referral at the time of these determinations had not completed a home visit previously. (Petitioner Testimony). As indicated in a May 8, 2023, contact note, the face-to-face contacts for the six-month reviews were replaced with telephone or videoconference interviews during the COVID 19 public health emergency. A telephone contact was utilized for the May 8, 2023, six-month review with Petitioner. (Exhibit A, p. 23). Accordingly, even though the ASW did not meet with Petitioner face to face at her home on May 8, 2023, a six-month review still

occurred and special rules were still in place at that time due to COVID-19 that allowed for the telephone contact.

Petitioner asserted that she spoke with the ASW, who was ill and unable to go to Petitioner's home. Petitioner stated that the ASW said she would contact Petitioner when she was well to set up a time to come to Petitioner's house. Petitioner did not hear from anybody after that contact with the ASW, which she believes was in November of 2023. Petitioner asserted that she complied and did everything she could to be in contact. Petitioner also asserted that she called the Department and talking with someone about having someone other than the assigned ASW come out to her home to conduct the home visit assessment. (Petitioner Testimony). However, there is no documentation that Petitioner contacted the Department to schedule the required home visit for the comprehensive assessment.

Pursuant to the above cited ASM policies, the termination of Petitioner's prior HHS case and denial of the more recent HHS referral were appropriate. The Department documented the multiple attempts they made to contact Petitioner. There is no documentation to support Petitioner's testimony that she called the Department to schedule the home visit assessment. Ultimately, the required home visit for the comprehensive assessment was not completed. Therefore, the termination and denial of HHS must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department acted in accordance with the Adult Services Manual policy when it terminated and denied HHS for Petitioner.

IT IS, THEREFORE, ORDERED that:

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

CL/pe



Colleen Lack
Administrative Law Judge

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

Elisa Daly
Saginaw County DHHS
411 E. Genesee
Saginaw, MI 48607
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Michelle Martin
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MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner

[REDACTED]
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