



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

Date Mailed: March 12, 2024
MOAHR Docket No.: 24-001430
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 March 12, 2024. [REDACTED] Petitioner's daughter and Authorized Hearing Representative (AHR), appeared and testified on Petitioner's behalf. [REDACTED] Petitioner, appeared as a witness. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Erica Grier, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly suspend 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 approved for HHS in March 2023. (Exhibit A, pp 11, 23; Testimony)
2. Petitioner currently has Extended Care Medicaid Coverage (ECMA). (Exhibit A, p 12; Testimony.) Persons with ECMA are ineligible to receive HHS because the coverage is designed for persons in a nursing facility, where all their care needs are being met. (Testimony)
3. Petitioner is diagnosed with end stage renal disease, other malaise (chronic or nervous debility), cerebrovascular accident (CVA), gastroparesis, hypertension, diabetes type 2, and hypercholesterolemia (high cholesterol). (Exhibit A, p 16; Testimony)

4. On January 22, 2024, the Department's ASW sent Petitioner a Negative Action Notice indicating that HHS was suspended because Petitioner's current Medicaid scope of coverage makes her ineligible for HHS payments. (Exhibit A, p 18; Testimony)
5. On February 14, 2024, Petitioner's hearing request was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, pp 7-10)

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 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 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).

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

Adult Services Manual (ASM) 115 addresses HHS requirements:

DHS-54A, MEDICAL NEEDS FORM

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services based on the existing medical condition, physical disability, or cognitive disability of the client. The medical professional must be an approved Medicaid provider, enrolled in CHAMPS, and hold one of the following professional licenses:

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

The DHS-54A, Medical Needs form is only required for Home Help clients at the initial opening of a case, unless one of the following exists:

- The ASW assesses a decline in the client's health which significantly increases their need for services, and clarification is needed from the medical provider.
- The ASW assesses an improvement in the client's ability for self-care, resulting in a decrease or elimination of services and the client states their care needs have not changed.
- The current DHS-54A has a specified time frame for needed services and that time frame has elapsed.

The client is responsible for obtaining the medical certification of need, but the DHS-54A must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form, and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition, physical disability, or cognitive disability. **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.

The date that the valid medical provider signs the DHS-54A is the medical certification date entered into MiAIMS.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

If the case is denied and a new referral is made within 90 days of the original certification date on the DHS-54A, there is no need to obtain a new medical needs form unless there are changes in the condition of the client.

Veteran's Administration (VA)

A DHS-54A completed by a veteran's administration medical provider, or the VA medical form 10-10M, in lieu of the DHS-54A, is acceptable.

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.

*Adult Services Manual (ASM) 115
May 1, 2023, pp 1-3 of 6
Emphasis added*

Adult Services Manual (ASM) 110 addresses HHS eligibility requirements:

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.

Referral Registration

The taking of a referral for the Home Help program involves four steps:

1. Enter known information about the client into the *Quick or Advanced Search* in MiAIMS. The client search will provide one of three results:
 - No matching record found.
 - One result. One result will open the case in a 360 screen.
 - More than one result. More than one result lists possible matches to the client.

In all three search results, add a new referral by clicking the *Add New Client/Add Referral* button under the *Client Action* section on MiAIMS.

2. Enter basic client information and demographics in the Client Information tab in MiAIMS.
3. Complete the Referral Information in MiAIMS by entering the referral date and time, source, and basic need for services.

Note: If the referral date or time in MiAIMS is not the actual receipt of the referral, the date and time must be adjusted in MiAIMS.

4. Complete a Bridges search for eligibility, correct Medicaid, and appropriate program enrollment type (PET) code or benefit plan (BP). Upon saving a referral in MiAIMS a log referral ID number is generated.

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: 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.

CONTACT

For questions contact MDHHS-Home-Help-Policy@michigan.gov.

*Adult Services Manual (ASM) 110
June 1, 2020, p 1-2
Emphasis added*

The ASW testified that Petitioner has a Medicaid scope of coverage of Extended Care Medicaid (ECMA). The ASW indicated that persons with ECMA are ineligible to receive HHS because the coverage is designed for persons in a nursing facility, where all their care needs are being met. The ASW testified that on January 22, 2024, she sent Petitioner a Negative Action Notice indicating that HHS was suspended due to Petitioner's current Medicaid coverage.

The ASW indicated that Petitioner could request a hearing regarding her Medicaid eligibility by calling the Department's 1-844 number. The ASW also indicated that if Petitioner is not eligible for HHS through Medicaid, she could also seek home health services through Medicare, by calling VP of MI, PLLC at 248-509-4070.

Petitioner testified that she has tried calling the 1-844 number but she cannot get a straight answer. Petitioner indicated that she reaches a new person every time she calls and she keeps getting referred to other people who cannot help her.

In response, the undersigned indicated that he would forward Petitioner's request for hearing to her local DHHS office so that a Medicaid eligibility hearing could be scheduled.

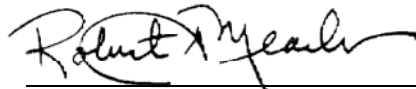
Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that the Department erred in suspending her HHS. Persons with ECMA are ineligible to receive HHS because the coverage is designed for persons in a nursing facility, where all their care needs are being met. Petitioner can contest her Medicaid coverage through a Medicaid eligibility hearing. The undersigned did forward Petitioner's request for hearing to the local DHHS office following the hearing, so a Medicaid eligibility hearing should be scheduled soon. However, given the evidence here, the suspension of Petitioner's HHS was proper and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly suspended Petitioner's HHS 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, to their last known addresses in the manner specified below, this 12th day of March 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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