GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[redacted]
[redacted] MI [redacted]

Date Mailed: October 4, 2024
MOAHR Docket No.: 24-009236
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

On August 20, 2024, Petitioner [redacted] requested a hearing to dispute Medicaid services. As a result, a hearing was scheduled to be held on October 2, 2024. Medicaid services hearings are held pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented himself. Respondent Michigan Department of Health and Human Services (Department) had Appeals Review Officer Florence Scott-Emuakpor appear as its representative. Adult Services Specialist Deborah Shekoski and Supervisor Marquise Bonner appeared as the Department's witnesses. Neither party had any additional witnesses.

Sworn testimony was taken from both parties, and one exhibit was admitted into evidence. A 42-page packet of documents provided by the Department was admitted into evidence as Exhibit A.

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. Petitioner requested HHS from the Department.

2. Petitioner submitted a medical needs form (54A) completed by his medical provider, Dr. Hammad Aftab. The medical needs form stated that Petitioner had diagnoses of anxiety, depression, and PTSD. The medical needs form certified

that Petitioner had a need for assistance with the following personal care activities: grooming, meal preparation, laundry, and housework.

3. On July 18, 2024, an adult services worker visited Petitioner in his home to complete an assessment. Petitioner remained laying on a mattress in his living room throughout the visit. The adult services worker observed Petitioner sit up, twist, and reach independently. The adult services worker asked Petitioner about his need for assistance, and Petitioner reported that he needs assistance with all activities of daily living and all instrumental activities of daily living. The adult services worker asked Petitioner to explain why he was unable to do each of these activities independently, and Petitioner responded that his nervousness, low energy, anger, frustration, and paranoia prevent him from being able to do the activities. Petitioner did not provide any explanation for why he was physically unable to do the activities independently. Petitioner reported that he has a cane, but the adult services worker did not observe that Petitioner had any physical limitations. The adult services worker did not identify a need for hands-on assistance with any activities of daily living.

4. On August 1, 2024, the Department mailed a negative action notice to Petitioner to notify him that his request for HHS was denied because he did not have a need for hands-on assistance with at least one ADL.

5. Petitioner requested a hearing to dispute the Department's decision to deny his request for HHS.

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.

In order to be eligible for HHS, an individual must have a need for services, based on a comprehensive assessment indicating a need for hands-on assistance with at least one activity of daily living (ADL) or a need for complex care. ASM 120 (May 1, 2023), p. 3. Those activities known as ADL's are eating, toileting, bathing, grooming, dressing, transferring, and mobility. *Id.* at 2-3. Complex care includes care such as catheters, bowel programs, specialized skin care, suctioning, range of motion exercises, wound care, respiratory treatments, ventilators, and injections. *Id.* at 4-5.

The comprehensive assessment is the Department's primary tool for determining a client's need for services. *Id.* at 1. Although a medical professional may certify a client's need for services, it is the Department who determines whether there is a need for services through its comprehensive assessment. ASM 115 (May 1, 2023), p. 2. During the assessment, the Department documents a client's abilities and needs in order to determine the client's ability to perform activities. ASM 120 at 2.

In this case, the Department completed a comprehensive assessment following Petitioner's request for HHS. The Department met with Petitioner in his home. During the assessment, the Department observed Petitioner; and the Department asked Petitioner about his need for assistance. Although Petitioner stated that he needed assistance with all ADL's, Petitioner was unable to explain why he was unable to complete his ADL's independently. Based on the information the Department obtained, the Department determined that Petitioner was not eligible for HHS because he did not have a need for hands-on assistance with any ADL's or a need for complex care.

Petitioner did not present sufficient evidence to establish that the Department did not act in accordance with its policies and the applicable law. The Department's assessment supported the Department's determination, and Petitioner did not present any evidence to establish that the assessment was not completed properly. Therefore, I must find that the Department properly denied Petitioner's request for HHS.

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 ORDERED THAT the Department's decision is **AFFIRMED**.

JK/pe

Jeffrey Kemm
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 and First Class Mail:

Petitioner
[redacted]
MI [redacted]
[redacted]

Via Electronic Mail:

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