



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

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Date Mailed: November 7, 2024
MOAHR Docket No.: 24-010354
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 Petitioner's request for a hearing.

After due notice, a telephone hearing was held on October 24, 2024. Petitioner appeared and testified on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Kristel Ezell, 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 1-30. No other proposed exhibits were submitted.

ISSUE

Did the Department properly decide to terminate 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. Beginning in 1996, Petitioner was approved for HHS through the Department. (Exhibit A, page 8).
2. In August of 2024, Petitioner was due for a six-month review of her HHS. (Testimony of ASW).

3. On August 7, 2024, the ASW attempted to complete a required and scheduled six-month review with Petitioner in Petitioner's home. (Exhibit A, page 10).
4. However, Petitioner was not present at that time. (Exhibit A, page 10; Testimony of Petitioner).
5. The ASW then telephoned Petitioner, who reported that she was at the hospital because Petitioner's mother had fallen. (Exhibit A, page 10; Testimony of Petitioner).
6. On August 7, 2024, the ASW sent Petitioner a letter stating that a home visit had been scheduled for August 26, 2024. (Exhibit A, page 11).
7. On August 26, 2024, the ASW attempted to complete the rescheduled home visit, but was unable to do so because Petitioner was not present. (Exhibit A, page 12; Testimony of Petitioner).
8. Petitioner did not contact the ASW that day or thereafter. (Testimony of Petitioner).
9. On August 27, 2024, the Department sent Petitioner written notice that her HHS would be terminated as of September 10, 2024, because Petitioner had failed to be present for the home visit or to notify the ASW that she would be unavailable. (Exhibit A, page 14).
10. On September 19, 2024, the Michigan Office of Administrative Hearings and Rules (MOAHR) received a request for hearing filed by Petitioner in this matter. (Exhibit A, page 7).

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 reviews of open HHS cases, Adult Services Manual 155 (2-1-2019) states in part:

CASE REVIEWS

Home Help cases must be reviewed every six months.

Requirements for case review must include:

- *A face-to-face contact is required with the client in the home.*
 - Review of client satisfaction with the delivery of planned services and care provided by the caregiver or agency.
 - Follow-up on any absences or hospitalization coming up or since the last home visit.
- *A face-to-face or phone contact must be made with the caregiver or agency provider at each review to verify services are being furnished.*

Note: If contact is made by phone, the caregiver or agency provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local Michigan Department of Health and Human Services (MDHHS) office must take place at the next review.

- A review of the current comprehensive assessment and plan of care.
- Verification of the client's Medicaid eligibility, when Home Help services are being paid.
- Follow-up collateral contacts with significant others such as family, guardians, and friends to assess their role in the plan of care, if applicable.

Documentation

Case documentation for **all** reviews must include:

- A new face to face contact should be logged as an SOP event type "six-month review" in MiAIMS contact module. The contact should include that the client was in the home and a brief statement of the requirements of the home visit, the nature of the contact and who was present during the home visit.
- Entering the "six-month review" SOP event type face to face contact with the client automatically updates the disposition details on the 360-overview tab.

Note: A face to face contact entry with the client generates a case management billing.

- A review of all MiAIMS modules and tabs with information updated as needed.
- Documented contact details with the Home Help caregiver or agency provider in the contact module on MiAIMS.
- Update new information obtained in the MDHHS-5534, Comprehensive Assessment, modules in MiAIMS.
- The MDHHS-5537, Plan of Care, is automatically updated when areas of concern are identified as an issue in the comprehensive assessment.
- Change in caregivers or agency providers if required.
- Add new authorization for services continuing.
- Send notification if services have been increased or decreased; see: ASM 150 Notification of Eligibility Determination

*ASM 155, pages 1-2
(italics added for emphasis)*

Moreover, regarding case closures, ASM 170 (7-1-2022) states in part:

Home Help cases may be closed due to a number of reasons. The case must have all documentation, including any updated assessment information, and new contacts entered in MiAIMS before the case is closed.

- Case closing information must be entered in MiAIMS.
- Any comments that may prove helpful in the future should be included in the closing summary.

Note: If a new assessment determines the client no longer needs hands-on services for any activities of daily living (ADLs), the adult services worker (ASW) must update the assessment to reflect the change in the client's needs prior to closing the case.

The ASW must generate a DHS-1212, Advanced Negative Action Notice, from MiAIMS and mail to the client or their guardian/designated representative; see ASM 150, Notification of Eligibility.

The payment authorizations to individual caregivers and agency providers must be terminated in MiAIMS.

Note: The adult services worker may choose to suspend payments, and delay case closure, if it appears the situation may be temporary.

* * *

Termination of Home Help Payments

Home Help payments may be terminated and closing procedures initiated, in any of the following circumstances:

- The client fails to meet any of the eligibility requirements.

ASM 170, pages 1-2

Here, the Department terminated Petitioner's HHS pursuant to the above policy and on the basis that the Department was unable to complete the required, face-to-face six-month review with Petitioner.

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 record and applicable policies, Petitioner has failed to meet her burden of proof; and the Department's decision must therefore be affirmed.

As provided above, HHS cases must be reviewed every six months, with a face-to-face contact with the home help client; and it is undisputed that no such review was completed in this case.

Moreover, the required review was not completed due to Petitioner. It is undisputed that the ASW attempted properly scheduled home visits on two separate occasions, and Petitioner was not present for either visit. It is also undisputed that Petitioner failed to contact the ASW following the second failed attempt to explain her failure to be present or to reschedule.

In response, Petitioner credibly testified that she has been receiving HHS for years and knows the requirement that a six-month review be completed. She also testified that she missed the first visit due to a medical emergency with her mother and the second visit because a doctor's appointment ran long. She further testified that she did not contact the ASW after missing the second attempted visit because she knew her services would be terminated, and she decided to just wait to appeal.

However, while credible, Petitioner's testimony is unpersuasive. She confirms that, despite two attempts, the required six-month was not completed due to Petitioner; and she failed to identify any good cause or exception to the applicable policies that would warrant reversing the termination.

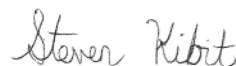
Accordingly, for the reasons discussed above, the termination of Petitioner's HHS must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly terminated Petitioner's HHS.

IT IS, THEREFORE, ORDERED that:

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



Steven Kibit
Administrative Law Judge

SK/pe

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

Via Electronic Mail:

Agency Representative

Florence Scott-Emuakpor
MDHHS Appeals Section
P.O. Box 30807
Lansing, MI 48909
ScottF@michigan.gov

DHHS Department Contact

Michelle Martin
MDHHS
400 S. Pine St., 6th Floor
Lansing, MI 48933
MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Sherry Reid
MDHHS-Greenview Adult Services District
Wayne County, BSC-4
19340 Greenview Ave., Ste. 200
Detroit, MI 48219
MDHHS-WC-MAHSHearing@michigan.gov

DHHS Department Representative

Mary Carrier
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P.O. Box 30807
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner

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