

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 3, 2020
MOAHR Docket No.: 19-011993
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on January 2, 2020. [REDACTED], Home Manager, Passages Community Services, represented the Petitioner. [REDACTED], Petitioner, was present. Theresa Root, Appeals Review Officer (ARO), represented the Department of Health and Human Services (Department). Shameil Thomas, Adult Services Worker (ASW), and Leslie Sims, Adult Services Supervisor, appeared as witnesses for the Department.

During the hearing proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-10.

ISSUE

Did the Department properly process Petitioner's March 19, 2019, Home Help Services (HHS) referral?

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 March 19, 2019, the Department received an HHS referral for Petitioner. (Exhibit A, p. 7)
2. The Department received a DHS-390 Adult Services Application for Petitioner, but did not know whether the person that signed the application had authority to do so. (Exhibit A, p. 5; ASW Testimony)

3. The Department received a DHS-54A Medical Needs form, signed by Petitioner's doctor on March 5, 2019, certifying that Petitioner had a medical need for assistance with listed personal care activities. The signature of the patient or representative in the medical release portion matches the signature on the application. (Exhibit A, pp. 5 and 9)
4. There was no evidence that the Department sent Petitioner an ILS Intro Letter, or other correspondence, stating that the application and medical release could not be accepted as submitted; documentation showing authority to represent Petitioner was needed; or that a copy of the representative's identification was needed.
5. On April 29, 2019, the ASW completed a home visit for an initial assessment for Petitioner's HHS referral. The ASW noted that Petitioner's Guardian needed to be contacted so that documentation could be completed. (Exhibit A, p. 8)
6. On May 7, 2019, the ASW called the agency owner to get more information regarding Petitioner's needs. A call was also made to Petitioner's Guardian to obtain signatures. (Exhibit A, p. 8)
7. On June 6, 2019, the ASW denied the referral because "the provider or guardian has not come [forth] to complete the assessment regarding the client needs this case is in-active." (Exhibit A, p. 7)
8. The Department did not issue written notice of the denial to Petitioner. (ASW Testimony)
9. On November 14, 2019, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules (MOAHR). (Hearing Request)

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.

Adult Services Manual (ASM) 110 addresses the HHS referral process:

REFERRAL INTAKE

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

Registration and Case Disposition Action

Documentation

Print introduction letter, the DHS-390, Adult Services Application, and the DHS-54A, Medical Needs, form located in the Forms tab and mail to the client. The introduction letter allows the client 21 calendars 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 from the time the referral is received and entered on MiAIMS. The referral date entered on MiAIMS must be the date the referral was received into the local office. The computer system calculates the 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 medical need form does not serve as an application for services. If the local office receives the DHS-54A, a referral must be entered on MiAIMS for the date the form

was received in the local office and an application sent to the individual requesting services.

After receiving the assigned case, the ASW gathers information through an assessment, contacts, etc. to make a determination to open, deny or withdraw the referral; see ASM 115, Adult Services Requirements.

Adult Services Manual (ASM) 110,
January 1, 2018, pp. 1-2
(Underline added by ALJ)

Additionally, Adult Services Manual (ASM)130 addresses notification of eligibility determinations:

INTRODUCTION

When a Home Help or Adult Community Placement (ACP) referral is called in or an DHS-390, Adult Services Application, is submitted, written notification must be provided for approval or denial for services. A written notice must be sent at the time the worker dispositions the pending Home Help or Adult Community Placement referral; see: [ASM 110 Referral Process](#).

Clients with active service cases must be provided written notice of any change in their services (increase, reduction, suspension or termination).

Written Notification of Disposition

All notifications are documented under Michigan Adult Integrated Management System (MiAIMS) contact module, when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter must include an explanation of the procedures for requesting an administrative hearing. The DCH-0092, Request for Hearings, notification must be generated from the forms module in MiAIMS and sent with all negative action notices (DHS- 1212A or DHS 1212).

The adult services worker **must sign** the bottom of the second page of all notices (DHS-1210, DHS-1212A, DHS-1212) before they are mailed to the client.

Adult Services Manual (ASM) 150,
January 1, 2018, p. 1
(Underline added by ALJ)

Additionally, Adult Services Manual (ASM) 105 addresses the Eligibility Criteria and the DHS-54A Medical Needs form:

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- 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).
- Appropriate Program Enrollment Type (PET) codes.

Medical Need Certification

Medical needs are certified utilizing the DHS-54A, Medical Needs, form and must be completed by a Medicaid enrolled medical professional. The medical professional must hold one of the following professional licenses:

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

The DHS-54A or veterans administration medical form are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

Adult Services Manual (ASM) 105,
January 1, 2018, pp. 1-3.

On March 19, 2019, the Department received an HHS referral for Petitioner. (Exhibit A, p. 7)

The Department received a DHS-390 Adult Services Application for Petitioner, but did not know whether the person that signed the application had authority to do so. (Exhibit A, p. 5; ASW Testimony) The Department received a DHS-54A Medical Needs form, signed by Petitioner's doctor on March 5, 2019, certifying that Petitioner had a medical need for assistance with listed personal care activities. The signature of the patient or representative in the medical release portion matches the signature on the application. (Exhibit A, pp. 5 and 9)

The testimony of the Home Manager indicated Petitioner's brother signed the DHS-390 Adult Services Application and a DHS-54A Medical Needs form for Petitioner. At that time, Petitioner's brother's authority to do so would have been as Power of Attorney (POA). Petitioner's brother did not become Petitioner's Guardian until October 2019. (Home Manager Testimony)

It is understood that the Department did not know that the person that signed the application and medical verification forms was Petitioner's brother/POA. However, if the Department was not going to accept the application as having a valid signature, it is unclear why the Department would not have issued an ILS Intro Letter, or other correspondence, stating that the application and medical form could not be accepted as submitted; documentation showing authority to represent Petitioner was needed; or that a copy of the representative's identification was needed.

It appears that there was some miscommunication at the April 29, 2019, initial assessment home visit based on the ASW's note that Petitioner's Guardian needed to be contacted so that documentation could be completed. (Exhibit A, p. 8) The Home Manager's testimony indicated Petitioner did not have a Guardian until October 2019. However, even after the April 29, 2019, home visit, no written request was made to verify Petitioner's brother's authority to act on Petitioner's behalf. The case notes indicate a single phone call on May 7, 2019. (Exhibit A, p. 8) Then on June 6, 2019, the ASW denied the referral because "the provider or guardian has not come [forth] to complete the assessment regarding the client needs this case is in-active." (Exhibit A, p. 7) The ASW acknowledged that she did not issue written notice of the denial. (ASW Testimony)

Overall, the evidence establishes that the Department did not follow the above cited ASM policies in denying Petitioner's March 19, 2019, HHS referral. The Department did

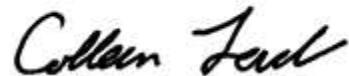
not issue an ILS Intro Letter, or other correspondence, stating that the application and medical release could not be accepted as submitted; documentation showing authority to represent Petitioner was needed; or a copy of the representative's identification was needed. The Department also failed to issue any written notice of the denial of the HHS referral. Accordingly, the Department's actions cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly processed Petitioner's March 19, 2019, Home Help Services (HHS) referral.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **REVERSED**. If they have not already done so, the Department shall initiate re-redetermining Petitioner's eligibility for HHS in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

CL/dh

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

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI 48909

DHHS-Location Contact

Sherry Reid
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI 48933

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED] MI [REDACTED]

Agency Representative

Theresa Root
222 N Washington Sq
Suite 100
Lansing, MI 48933