

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 10, 2020
MOAHR Docket No.: 19-012087
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 8, 2020. [REDACTED], the Petitioner, appeared on his own behalf. [REDACTED], cousin, appeared as a witness for Petitioner. Theresa Root, Appeals Review Officer, represented the Department of Health and Human Services (Department). Jeffrey Love, Adult Services Worker (ASW), appeared as a witness for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-12.

ISSUE

Did the Department properly deny Petitioner's 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. The Department received a referral for HHS for Petitioner.
2. Petitioner's podiatrist completed a DHS-54A Medical Needs form on October 31, 2019. The listed diagnosis is post-operative wound. In field I, the doctor certified that Petitioner had a medical need for assistance with listed personal care activities. (Exhibit A, pp. 7-8)

3. On November 5, 2019, the Department sent Petitioner an Advance Negative Action Notice informing him that HHS was denied because the medical needs form could not be accepted as a valid form for the HHS program because it was completed by a podiatrist. (Exhibit A, p. 5)
4. On November 19, 2019, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules (MOAHR). (Exhibit A, pp. 4-6)

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) 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.
(Underline added by ALJ)

In this case, the medical need certification the Department received for Petitioner's HHS referral was completed by a podiatrist on October 31, 2019. (Exhibit A, pp. 7-8) Under the above cited ASM 105 policy, the DHS-54A Medical Needs form must be completed by a Medicaid enrolled physician (M.D. or D.O), physician assistant, nurse practitioner, occupational therapist, or physical therapist. The ASM 105 policy does not allow for the medical needs certification to be completed by a podiatrist (D.P.M.). Accordingly, on November 5, 2019, the Department sent Petitioner an Advance Negative Action Notice informing him that HHS was denied because the medical needs form could not be accepted as a valid form for the HHS program because it was completed by a podiatrist. (Exhibit A, p. 5)

Overall, the evidence establishes that the Department followed the above cited ASM 105 policy in denying Petitioner's HHS referral. The DHS-54A Medical Needs form the Department received for this referral was completed by Petitioner's podiatrist. The policy only allows for the DHS-54A Medical Needs form to be completed by a Medicaid enrolled physician (M.D. or D.O), physician assistant, nurse practitioner, occupational therapist, or physical therapist. Accordingly, the Department's determination to deny Petitioner's HHS, referral is upheld.

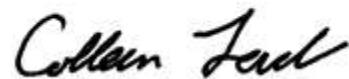
If it has not already been done, a new HHS referral for Petitioner should be initiated utilizing the DHS-54A Medical Needs form completed by Petitioner's physician (D.O.), which was submitted with the hearing request.

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 Home Help Services (HHS) referral.

IT IS, THEREFORE, ORDERED that:

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



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

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Petitioner

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