



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 11, 2020
MOAHR Docket No.: 19-012088
Agency No.: ██████████
Petitioner: ██████████

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. ██████████, the Petitioner, appeared on his own behalf. Allison Pool, Appeals Review Officer (ARO), represented the Department of Health and Human Services (Department). Mikia Dunham, Adult Services Worker (ASW) and Kelly Williams, Adult Services Supervisor, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-22.

ISSUE

Did the Department properly terminate Petitioner's Home Help Services (HHS) case?

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 █████-year-old Medicaid beneficiary (date of birth █████ 1979) that had an open HHS case since May 8, 2012. (Exhibit A, p. 8)
2. The Department documented receiving a DHS-54A Medical Needs form for Petitioner dated February 8, 2016. (Exhibit A, p. 8)
3. On June 18, 2019, the ASW completed a home visit as part of a six-month review of Petitioner's HHS case. (Exhibit A, p. 10)

4. The Department subsequently discovered there was no DHS-54A Medical Needs form on file for Petitioner. (ASW Testimony)
5. On June 21, 2019, the Department sent Petitioner a DHS-54A Medical Needs form to be completed by his medical provider. (Exhibit A, p. 10)
6. On August 23, 2019, the Department sent Petitioner a DHS-54A Medical Needs form to be completed by his medical provider. (Exhibit A, p. 10)
7. On October 18, 2019, the Department issued an Advance Negative Action Notice to Petitioner stating that the HHS case would be terminated effective November 1, 2019, if the enclosed DHS-54A Medical Needs form was not completed by Petitioner's physician, nurse practitioner, occupational or physical therapist and received by the effective date. (Exhibit A, pp. 7 and 11)
8. Petitioner's HHS case closed November 4, 2019, because the DHS-54A Medical Needs form had not been received. (Exhibit A, p. 8; ASW Testimony)
9. On November 19, 2019, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules (MOAHR). (Exhibit A, pp. 6-7)

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) 101, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the home help services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are not currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities **must** be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **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.

Adult Services Manual (ASM) 101,
April 1, 2018, pp. 1-2
(Underline added by ALJ)

Adult Services Manual (ASM) 105 addresses HHS requirements:

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 of 4
(Underline added by ALJ)

Adult Services Manual (ASM) 115 addresses the DHS-54A Medical Needs form:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs, form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

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

The 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.
- 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 medical needs form has a specified time frame for needed services and that time frame has elapsed.

At each case review the ASW must document in the general narrative if a medical needs form is or is not needed.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and **not** the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider 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. **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.

Adult Services Manual (ASM) 115,
January 1, 2018, pp. 1-2 of 5

On June 18, 2019, the ASW completed a home visit as part of a six-month review of Petitioner's HHS case. (Exhibit A, p. 10) The Department subsequently discovered there was no DHS-54A Medical Needs form on file for Petitioner. (ASW Testimony) The Department documented receiving a DHS-54A Medical Needs form for Petitioner dated February 8, 2016. (Exhibit A, p. 8) However, the actual 2016 DHS-54A Medical Needs form was not in Petitioner's case file, either the physical file or in the electronic record. (ASW Testimony)

On June 21, 2019, the Department sent Petitioner a DHS-54A Medical Needs form to be completed by his medical provider. On August 23, 2019, the Department sent Petitioner a DHS-54A Medical Needs form to be completed by his medical provider. (Exhibit A, p. 10) On October 18, 2019, the Department issued an Advance Negative Action Notice to Petitioner stating that the HHS case would be terminated effective November 1, 2019, if the enclosed DHS-54A Medical Needs form was not completed by Petitioner's physician, nurse practitioner, occupational or physical therapist and received by the effective date. (Exhibit A, pp. 7 and 11) Petitioner's HHS case closed November 4, 2019, because the DHS-54A Medical Needs form had not been received. (Exhibit A, p. 8; ASW Testimony)

Petitioner testified that he was having a problem getting the form signed. There is a high turnover rate with the doctors there. The new doctors did not know how to handle it. (Petitioner Testimony)

The above ASM policies require that an HHS client have a medical certification on file. In this case, while an entry was made indicating the Department received a DHS-54A Medical Needs form for Petitioner dated February 8, 2016, no medical certification form was found in Petitioner's physical case file or in the electronic record. Accordingly, a medical certification form was needed for Petitioner's HHS case. The Department sent the required form to Petitioner for his medical provider to complete on three occasions, June 21, 2019, August 23, 2019, and October 18, 2019. The third time, the form was

sent with an Advance Negative Action Notice, which stated that the HHS case would be terminated if the enclosed DHS-54A Medical Needs form was not completed and returned by the November 1, 2019, effective date. When the form was still not received, Petitioner's HHS case closed November 4, 2019. The Department's determination to terminate Petitioner's HHS case is upheld because policy requires that Petitioner have a medical certification form on file, no medical certification form could be located in the case record, and Petitioner was given multiple opportunities to submit a completed medical certification form.

If he has not already done so, Petitioner may wish to make a new referral for the HHS program.

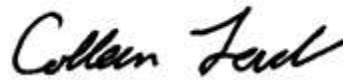
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated Petitioner's HHS case based on the available information.

IT IS, THEREFORE, ORDERED that:

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

CL/dh



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

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

Agency Representative

Allison Pool
222 N Washington Square
Suite 100
Lansing, MI 48933

Petitioner

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