



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 11, 2020
MOAHR Docket No.: 19-013182
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

Upon the Petitioner's December 23, 2019, request for a hearing, this matter is before the undersigned Administrative Law Judge 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. After due notice, a telephone hearing was held on February 11, 2020, from Lansing, Michigan.

Petitioner, [REDACTED], appeared with her witness, [REDACTED]. Respondent, Department of Health and Human Services (Department), had Emily Piggott, Appeals Review Officer, appear as its representative. The Department had one witness, Kelly Robertson, Adult Services Worker. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 43-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A, and a 6-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit B.

ISSUE

Did the Department properly close 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. Petitioner was a HHS recipient.
2. Petitioner was approved for the following services: bathing, housework, laundry, meal preparation, shopping for food and medications, and transportation for shopping for food and medications.

3. Petitioner's HHS provider was Family Home Health Care Services.
4. On October 24, 2019, Family Home Health Care Services contacted the Department and reported that Petitioner was only allowing her care provider to provide transportation (Petitioner was not allowing her care provider to provide any other authorized services).
5. The Department attempted to contact Petitioner to discuss her HHS to determine if Petitioner still needed all the authorized services.
6. Family Home Health Care Services provided copies of Petitioner's care provider's time sheets. The time sheets showed that the only authorized service that Petitioner's care provider was providing was shopping.
7. On November 27, 2019, the Department mailed a negative action notice to Petitioner to notify her that her HHS were going to close effective December 11, 2019, because Petitioner would only allow her care provider to drive her and transportation was not a covered service.
8. On December 23, 2019, Petitioner requested a hearing to dispute the Department's decision to close her 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 close a HHS case, the Department must first determine that the client does not meet the eligibility requirements, the client no longer wishes to receive services, or the client is receiving services from another program and HHS would be duplicative. ASM 170 (February 1, 2019). In this case, the Department did not determine that Petitioner fell into one of the three categories for case closure before the Department initiated the closure of her HHS case. The Department determined that Petitioner was not using all of her authorized services, so the Department decided to close her HHS. The Department did not close Petitioner's HHS case in accordance with ASM 170. Therefore, the Department's decision to close Petitioner's HHS must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department did not properly close Petitioner's HHS.

IT IS ORDERED THAT the Department's decision is **REVERSED**. The Department shall begin to implement this decision within 10 days.

JK/dh



Jeffrey Kemm

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 Department Rep.

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

Agency Representative

Emily Piggott
222 N Washington Square
Suite 100
Lansing, MI 48909

DHHS-Location Contact

Lee Hale
Gratiot County DHS
201 Commerce Drive
Ithaca, MI 48847

Petitioner

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