



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

**FELECISA BYRD
3521 JOHN LODGE, APT 706
DETROIT, MI 48201-2990**

Date Mailed: March 6, 2020
MOAHR Docket No.: 20-000256
Agency No.: 36056748
Petitioner: Felecisa Byrd

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 the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on March 5, 2020. Matthew Foster, Petitioner's brother, appeared and testified on Petitioner's behalf. Petitioner also testified as a witness on her own behalf. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Shevonne Trice, Adult Services Worker (ASW), testified as a witness for the Department, with Vivian Hurst, Adult Services Supervisor, also present.

During the hearing, the Department submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-40. No other exhibits were submitted or admitted.

ISSUE

Did the Department properly deny Petitioner's request for 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 is a Medicaid beneficiary who was referred for HHS through the Department on December 6, 2019. (Exhibit A, pages 6, 8).
2. On December 27, 2019, the ASW sent Petitioner written notice of a home visit scheduled for January 8, 2020 between 10:00 a.m. and 3:00 p.m. (Exhibit A, page 10).
3. However, the home visit was not completed as scheduled. (Exhibit A, page 12; Testimony of ASW).

4. On January 8, 2020, the ASW appeared at Petitioner's home as scheduled and knocked on the door, but no one answered. (Exhibit A, page 12; Testimony of ASW).
5. The ASW also telephoned Petitioner later that day, but no one answered. (Exhibit A, page 12; Testimony of ASW).
6. On June 3, 2019, the Department determined that Petitioner's request for HHS should be denied because the required home visit and comprehensive assessment was not completed. (Exhibit A, page 10).
7. On January 9, 2020, the Department sent Petitioner written notice that her request for HHS was denied because she had failed to appear for the scheduled assessment as required. (Exhibit A, pages 5, 12).
8. On January 23, 2020, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter with respect to that denial. (Exhibit A, pages 4-5).¹

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.

The process for receiving HHS begins with a referral and, with respect to the referral and approval process, Adult Services Manual (ASM) 110 (1-1-2018) states in part:

A referral for Home Help services 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.

¹ Petitioner was previously approved for HHS, but the services ended on November 1, 2019. Given the dates of the past termination of services and the receipt of the request for hearing in this case, Petitioner's request could have been a timely appeal of the termination of services. However, Petitioner and her representative only attached and referenced the denial of her subsequent request for services and there was no indication in the request for hearing that Petitioner was appealing a past termination of services.

* * *

Registration and Case Disposition Action

Supervisor or designee assigns case to the adult services worker (ASW) in the Assign Worker button under Client Action section on MiAIMS.

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.

ASM 110, pages 1-2

With respect to the requirements to receive HHS referenced above, ASM 105 (1-1-2018) states in part:

Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened for supportive services to assist the client in applying for Medicaid (MA).

Home help services payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

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.

ASM 105, page 1

With respect to the comprehensive assessment referenced above, ASM 120 (2-1-2019) states in part:

The MDHHS-5534, Adult Services Comprehensive Assessment, is the primary tool for determining a client need for services. The comprehensive assessment must be completed on **all open Home Help services cases**. Michigan Adult Integrated Management System (MiAIMS), provides the format for the comprehensive assessment and all information must be entered on the computer program.

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the client in his/her place of residence.

Note: If there are worker safety issues related to meeting the client in the home, a policy exception may be requested from the Home Help Policy program office to conduct the visit at another setting.

ASM 120, page 1

Here, the Department denied Petitioner's request for HHS pursuant to the above policies and on the basis that it was unable to complete the required in-home comprehensive assessment that is necessary to approve HHS.

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 that was available at the time the decision was made.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof and the Department's decision must be affirmed.

The record reflects that the ASW made a proper attempt to complete the required home visit/comprehensive assessment, with a home visit letter sent to the correct address prior to the attempt, but that she was unsuccessful because Petitioner was either not present or failed to answer. The record similarly reflects that the ASW also attempted to contact Petitioner directly by telephone, but that Petitioner did not answer or otherwise contact the Department.

Moreover, neither Petitioner nor her representative disputed any of the Department's evidence and the primary argument they did make, that Petitioner needs assistance, is not relevant to the Department's action as it was unable to complete the required assessment in order to make a decision on Petitioner's needs. At most, Petitioner's representative testified that Petitioner has memory problems and needs someone to assist her with paperwork and scheduling, but Petitioner is her own guardian; the Department acted properly with respect to the information it did have; and if Petitioner need assistance in communicating with the Department or coordinating an assessment, then she needs to arrange it beforehand.

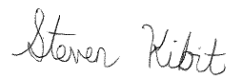
To the extent Petitioner still wants HHS, she can always request services again in the future. With respect to the action at issue in this case however, the Department's decision is affirmed.

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 request for HHS.

IT IS, THEREFORE, ORDERED that:

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



SK/sb

Steven Kibit
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
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DHHS Department Rep.

M. Carrier
Appeals Section
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Petitioner

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Authorized Hearing Rep.

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