

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: October 14, 2021  
MOAHR Docket No.: 20-004814  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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, an in-person hearing was held on October 6, 2021. Petitioner appeared and testified on his own behalf. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Rebecca Brisboe-Gleissner, Adult Services Supervisor, and Stephanie Guse, Adult Services Worker (ASW), testified as witnesses for the Department.

During the hearing, Petitioner submitted four evidence packets that were admitted into the record as Exhibits #1-#4. The Department also submitted an evidence packet that was admitted into the record as Exhibit A.

**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 [REDACTED] (■) year-old Medicaid beneficiary who was referred for HHS through the Department on June 2, 2020. (Exhibit A, pages 5, 7).
2. At the time of that application, Petitioner was the identified individual provider of his mother's HHS through the MI Health Link Program. (Exhibit A, pages 10-15; Testimony of Petitioner).

3. He was also receiving payment for those HHS as an individual provider. (Exhibit A, pages 10-15; Testimony of Petitioner).
4. On July 15, 2020, the Department sent Petitioner written notice that his request for HHS was denied. (Exhibit A, page 4).
5. With respect to the reason for the denial, the notice stated:

You are currently being paid as an Individual Caregiver for another person who is receiving Home Help Services. Therefore, your current Home Help Services application is being denied because a provider of Home Help services cannot be a recipient of Home Help services at the same time per ASM 135.

*Exhibit A, page 4*

6. On July 27, 2020, the Michigan Office Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter with respect to that decision.<sup>1</sup>

### **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.

With respect to such services, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his request for HHS. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

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<sup>1</sup> The hearing in this matter with respect to that request was not held until October 6, 2021, due to Petitioner's request being dismissed at one point by another Administrative Law Judge, with that dismissal subsequently being vacated, and Petitioner's request for an in-person hearing, which could not be granted until MOAHR lifted its suspension of all in-person hearings because of the ongoing COVID-19 pandemic.

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

With respect to Home Help Caregivers through the program at the time of the decision in this case, Adult Services Manual (ASM) 135 (6-1-2020), page 2 of 16, expressly stated: **"An individual providing Home Help services cannot simultaneously be a recipient of Home Help services."**

In this case, it is undisputed that, at the time of the application and decision in this case, Petitioner was the paid individual provider of his mother's HHS through the MI Health Link Program.<sup>2</sup> Accordingly, as an individual already providing HHS, Petitioner was expressly prohibited by policy from being a recipient of HHS and his request had to be denied.

Petitioner argues that, while he was the identified paid caregiver of his mother's HHS, he was not actually providing the services and was instead paying his company's employees to provide care; and that he would therefore not be a provider and recipient of HHS simultaneously. However, Petitioner's argument is unpersuasive given that he could not fully identify any such employees or provide any evidence in support, and, regardless, he concedes that he was identified as his mother's HHS provider in his individual capacity. The undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision and given the applicable policy and Petitioner's identification as an individual provider of HHS, the Department acted properly given the information it had.

To the extent Petitioner's circumstances have changed or he has new or updated information to provide, Petitioner can always submit a new request for HHS. However, with respect to the issue in this case, the undersigned Administrative Law Judge finds that Department did not err given the information available at the time and that its denial must therefore be affirmed.

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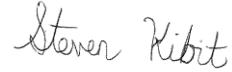
<sup>2</sup> "Effective March 1, 2015, the Michigan Department of Health and Human Services (MDHHS), in partnership with the Centers for Medicare and Medicaid Services (CMS), implemented a new capitated managed care program called MI Health Link. This program integrates, into a single coordinated delivery system, all physical health care, pharmacy, long-term supports and services and behavioral health care for individuals who are dually eligible for full Medicare and full Medicaid." ASM 126 (3-1-2020).

## **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**.



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SK/sb

**Steven Kibit**  
Administrative Law Judge

**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**

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**Petitioner**

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