

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI
[REDACTED]

Date Mailed: February 3, 2021
MOAHR Docket No.: 20-007682
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on February 2, 2021. Petitioner appeared on his own behalf along with [REDACTED]. Appeals Review Officer Florence Scott-Emuakpor represented the Department of Health and Human Services (Department). Adult Services Worker Lloyd Washington appeared and testified for the Department. Department Exhibit A, pp. 1-14 was received and 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 not a Medicaid beneficiary. (Exhibit A, p. 8).
2. On November 9, 2020, the Department sent Petitioner written notice that his request for HHS was denied because he was not active for Medicaid. (Exhibit A, p. 9).
3. On December 15, 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, p. 6).

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.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to the eligibility criteria for such services, ASM 105 (6-1-2020) provides in part:

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 activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

ASM 105, page 1

Here, the Department denied Petitioner's application for HHS on the basis that he was not active for Medicaid. Petitioner did not dispute at the hearing that he was not active for Medicaid at the time he requested Home Help Services.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his request for HHS.

Given the evidence in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet his burden of proof and that the Department's decision must therefore be affirmed.

To the extent Petitioner still needs services and becomes eligible for Medicaid he can always reapply for HHS. With respect to the decision at issue in this case however, the Department's decision must be affirmed given the information that it was given.

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**.

AM/dh


Aaron McClintic
Administrative Law Judge
for Elizabeth Hertel, 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

Petitioner



MI

Agency Representative

Florence Scott-Emuakpor
MDHHS Appeals Section
PO Box 30807
Lansing, MI 48909

DHHS-Location Contact

Wendy Brown
125 E. Union St, 7th Floor
Flint, MI 48502