



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: May 12, 2021
MOAHR Docket No.: 21-001768
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

On April 7, 2021, Petitioner, Dale Butler, requested 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 11, 2021.

Petitioner's authorized hearing representative, [REDACTED], appeared on Petitioner's behalf. Respondent, Department of Health and Human Services (Department), had Allison Pool, Appeals Review Officer, appear as its representative. The Department had one witness, Jocelyn Murphy, Adult Services Manager. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 45-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly denied 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 requested HHS from the Department.
2. On February 9, 2021, Petitioner's medical provider completed a medical needs form. On the medical needs form, Petitioner's provider did not certify that Petitioner had a medical need for assistance. However, Petitioner's provider

circled some personal care activities: taking medications, meal preparation, shopping, laundry, and housework.

3. On April 2, 2021, the Department met with Petitioner and his provider, Daryl Sampson, by telephone. A face-to-face home visit was not completed due to the COVID-19 pandemic. The Department completed its assessment by telephone. During the assessment, the Department asked Petitioner and his provider about the activities Petitioner needed assistance with. Petitioner and his provider reported that Petitioner needed assistance with housework, laundry, medications, meal preparation, and shopping. Petitioner and his provider reported that Petitioner did not need assistance with bathing, dressing, eating, grooming, toileting, mobility, and transferring. Petitioner and his provider did not report a need for assistance with any complex care needs.
4. Based on the Department's assessment, the Department determined that Petitioner did not need hands-on assistance with any activities of daily living (ADL's) and that he did not have any complex care needs.
5. On April 5, 2021, the Department mailed a negative action notice to Petitioner to notify him that his request for HHS was denied because he did not have a need for hands-on assistance with at least one ADL.
6. On April 7, 2021, Petitioner requested a hearing to dispute the Department's decision to deny his request for 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 be eligible for HHS, an individual must have a need for services, based on a comprehensive assessment indicating a need for hands-on assistance with at least one activity of daily living (ADL) or a need for complex care. ASM 120 (April 1, 2021), p. 3. Those activities known as ADL's are eating, toileting, bathing, grooming, dressing, transferring, and mobility. *Id.* at 2. Complex care includes such care as catheters, bowel programs, specialized skin care, suctioning, range of motion exercises, wound care, respiratory treatments, and injections. *Id.* at 4.

The comprehensive assessment is the Department's primary tool for determining a client's need for services. *Id.* at 1. Although a medical professional may certify a client's need for services, it is the Department who determines whether there is a need for services through its comprehensive assessment. ASM 115 (June 1, 2020), p. 2. During the assessment, the Department documents a client's abilities and needs in order to determine the client's ability to perform activities. ASM 120 at 2.

In this case, the Department completed a comprehensive assessment following Petitioner's request for HHS. The Department met with Petitioner and his provider by telephone due to the COVID-19 pandemic. During the assessment, the Department asked Petitioner and his provider about Petitioner's need for assistance. Based on the information the Department obtained when asking about Petitioner's need for assistance, the Department determined that Petitioner was not eligible for HHS because he did not have a need for hands-on assistance with any ADL's or a need for complex care.

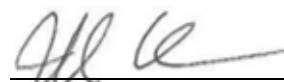
Petitioner did not present sufficient evidence to establish that the Department did not act in accordance with its policies and the applicable law. Petitioner's provider testified that Petitioner has a need for hands-on assistance with an ADL, bathing. However, that information was not shared during the assessment, and the Department was required to base its decision on information obtained during its assessment. The Department's assessment supported the Department's determination, and Petitioner did not present any evidence to establish that the assessment was not completed properly. Therefore, I must find that the Department properly denied Petitioner's request for HHS.

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 ORDERED THAT the Department's decision is **AFFIRMED**.

JK/dh



Jeffrey Kemm

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

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
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Agency Representative

Allison Pool
MDHHS Appeals Section
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]