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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 18, 2021
MOAHR Docket No.: 21-001895
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

On April 16, 2021, Petitioner, Gloria Jean Brown, 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 18, 2021.

Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had John Lambert, Appeals Review Officer, appear as its representative. The Department had two witnesses: Karen Madison, Adult Services Worker, and Redonda Williams, Adult Services Supervisor. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 51-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 December 10, 2020, Petitioner's medical provider completed a medical needs form. On the medical needs form, Petitioner's provider certified that Petitioner had a medical need for assistance. Petitioner's provider circled some of the

personal care activities listed on the form: meal preparation, shopping, laundry, and housework.

3. On January 26, 2021, the Department met with Petitioner 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 about the activities she needed assistance with. Petitioner reported that she needed assistance with housework, laundry, medications, meal preparation, and shopping. Petitioner reported that she did not need assistance with bathing, dressing, eating, grooming, toileting, mobility, and transferring. Petitioner 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 she did not have any complex care needs.
5. On January 27, 2021, the Department mailed a negative action notice to Petitioner to notify her that her request for HHS was denied because she did not have a need for hands-on assistance with at least one ADL.
6. On April 16, 2021, Petitioner requested a hearing to dispute the Department's decision to deny her 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 (June 1, 2020), 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 by telephone due to the COVID-19 pandemic. During the assessment, the Department asked Petitioner about her 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 she 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 testified that she needs assistance with washing her hair, but Petitioner did not share that information during her 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
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DHHS-Location Contact

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