



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: September 17, 2021
MOAHR Docket No.: 21-003597
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Petitioner's request for a hearing.

After due notice, a hearing was held on September 8, 2021. [REDACTED], Petitioner's Daughter and Authorized Hearing Representative, appeared on behalf of Petitioner. Allison Pool, Appeals Review Officer, represented the Respondent, Department of Health and Human Services (DHHS or Department). Ashley Wells, Adult Services Worker (ASW) appeared as a witness for the Department.

ISSUE

Did the Department properly deny Petitioner's Home Help Services (HHS) application?

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, born [REDACTED] 1946, who was referred for HHS on or about May 12, 2021. (Exhibit A, p 8.)
2. Petitioner has a history of cerebrovascular accident, chronic renal failure, tricuspid/aortic valve regurgitation, abnormal gait, arthritis, HLD, and HTN. (Exhibit A, p 10.)
3. On June 1, 2021, a 54A Medical Needs form was turned into the Department on behalf of Petitioner. The physician completing the form on behalf of Petitioner did not complete box I and certify Petitioner has having a medical need for assistance. (Exhibit A, p 10.)
4. On June 15, 2021, the Department sent Petitioner an Adequate Action Notice. The notice indicated the HHS application was denied because the medical

needs form did not certify Petitioner as having a medical need for services (Exhibit A, p 9; Testimony.)

5. On August 9, 2021, Petitioner's hearing request was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, pp 6-7.)

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 statute, 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.

Adult Services Manual (ASM) 115, addresses HHS requirements:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services based on the existing medical condition, physical disability, or cognitive disability of the client. The medical professional must be an approved Medicaid provider, enrolled in CHAMPS, and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Physician assistant.
- Nurse practitioner.
- Occupational therapist
- Physical therapist.

The DHS-54A, Medical Needs form is only required for Home Help clients at the initial opening of a case...¹

Adult Services Manual (ASM) 105, addresses HHS eligibility requirements:

¹ ASM 115, September 1, 2021, pp 1-2.

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Appropriate program enrollment type (PET) code.
- 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).²

The Department witness testified that Petitioner's 54A Medical Needs form did not certify a need for assistance. Based on this, the ASW indicated the Department sent Petitioner an Adequate Action Notice indicating that the HHS application was denied.

Petitioner agreed the 54A did not contain a check in the appropriate box but that the omission was an error. Petitioner went on to argue it wasn't fair that the services would be denied.

Per policy, the ASW could not approve Petitioner for HHS without a 54A Medical Needs form indicating a need for assistance with personal care. The evidence clearly shows that the doctor who completed Petitioner's 54A Medical Needs form did not certify a need for assistance with personal care. Accordingly, the denial of Petitioner's HHS application is upheld. If Petitioner does in fact have a need for assistance with personal care, they can reapply for HHS and submit a 54A Medical Needs form indicating a need for such care. The undersigned has no authority to ignore clear policy and no authority to grant Petitioner any equitable relief.

² ASM 105, June 1, 2020, p 1.


DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's HHS application based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

CA/dh



Corey Arendt
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
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DHHS

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Authorized Hearing Rep.

[REDACTED] MI [REDACTED]

Petitioner

[REDACTED] MI [REDACTED]