



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:
MOAHR Docket No.: 21-003818
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert J. Meade

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 began on September 16, 2021 and was continued on September 23, 2021. [REDACTED] Petitioner's son and Authorized Hearing Representative (AHR) appeared and testified on Petitioner's behalf. Emily Piggott, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Lakeshia Gordon, Adult Services Worker (ASW) and Redonda Williams, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

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

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, born [REDACTED], who applied for HHS on or about [REDACTED] (Exhibit A, p 6; Testimony)
2. Petitioner is diagnosed with low blood pressure, major depressive disorder, diabetes type 1, and chronic obstructive pulmonary disease (COPD). (Exhibit A, p 9; Testimony)
3. Petitioner is married and lives with his spouse. During a telephone assessment (due to the COVID-19 pandemic) on July 19, 2021, the ASW determined that Petitioner's spouse was able and available to care for Petitioner. In fact, the ASW determined that Petitioner's spouse, who also

applied for HHS, was ineligible for the program because she was able to complete all of her own ADL's independently. The ASW also determined that Petitioner's spouse did not work outside the home. (Exhibit A, p 12; Testimony)

4. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. (Adult Services Manual (ASM) 101, 4-1-18, pp 4-5)
5. A 54A Medical Needs form signed by Petitioner's doctor on June 21, 2021 indicates that Petitioner needs help with bathing, taking medications, meal preparation, shopping, laundry, and housework. The form also indicates that Petitioner's spouse is not disabled. (Exhibit A, p 11; Testimony)
6. On August 2, 2021, the Department sent an Adequate Negative Action Notice to Petitioner indicating that his HHS application would be denied because there was a responsible relative residing in the home with Petitioner and the ASW received no information that the spouse was unable or unavailable to care for Petitioner. (Exhibit A, p 15; Testimony)
7. On August 17, 2021, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, p 4)

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) 120, 4-1-2021, addresses responsible relatives:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general *Contacts* in MiAIMS.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The ASW would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks and is able to complete these tasks on the weekends.

*Adult Services Manual (ASM) 120
April 1, 2021
Page 7-8 of 9*

The ASW testified that Petitioner is married and lives with his spouse. During a telephone assessment (due to the COVID-19 pandemic) on July 19, 2021, the ASW determined that Petitioner's spouse was able and available to care for Petitioner. In fact, the ASW determined that Petitioner's spouse, who also applied for HHS, was ineligible for the program because she was able to complete all of her own ADL's independently. The ASW also determined that Petitioner's spouse did not work outside the home. The ASW also noted that a 54A Medical Needs form signed by Petitioner's doctor on June 21, 2021 indicates that Petitioner's spouse is not disabled. Based on the above, the ASW testified that on August 2, 2021, she sent an Adequate Negative Action Notice to Petitioner indicating that his HHS application would be denied because there was a responsible relative residing in the home with Petitioner and the ASW determined that the spouse was able and available to care for Petitioner.

Petitioner's son testified that his father has been suffering with many health issues for years and his mother has been taking care of him but no longer can due to her own declining health. Petitioner's son indicated that his father is diagnosed with low blood pressure, major depressive disorder, diabetes type 1, and COPD. Petitioner's son also testified that on August 28, 2021, Petitioner's father was diagnosed with COVID-19 and spent three weeks in the hospital. Petitioner's son indicated that while his father is now home, he is doing worse than he was before as he continues to have a bad respiratory

infection. Petitioner's son testified that he is doing physical therapy with his father and trying to build up his strength, but his father is currently staying in the living room on a day bed. Petitioner's son also indicated that his father has had to have a catheter installed since he returned from the hospital. Petitioner's son testified that his mother is no longer able to take care of his father and he has to take care of all their daily needs while trying to maintain his own full-time job.

As indicated above, ASM 120 defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Petitioner's spouse meets the definition of a responsible relative and no evidence was presented to the Department showing that Petitioner's spouse was unable or unavailable to provide care to Petitioner as of the date of action in this matter, August 2, 2021. In fact, the ASW determined that Petitioner's spouse, who also applied for HHS, was ineligible for the program because she was able to complete all of her own ADL's independently. The ASW also determined that Petitioner's spouse did not work outside the home and the 54A Medical Needs form signed by Petitioner's doctor on June 21, 2021 indicates that Petitioner's spouse is not disabled. If Petitioner's spouse's condition has deteriorated since the first assessment, and she is now unable to care for Petitioner because of her own medical conditions, Petitioner will need to reapply for HHS and provide proof of that information to the ASW at the assessment. Here however, Petitioner's HHS was properly denied based on the information available to the ASW at the time of the denial.

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 information available at the time of the denial notice.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



RM/

Robert J. Meade
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
Lansing, MI
48933

Agency Representative

Emily Piggott
222 N Washington Square
Suite 100
Lansing, MI
48909

Authorized Hearing Rep.

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MI

Petitioner

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