

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
, MI [REDACTED]

Date Mailed: February 10, 2022
MOAHR Docket No.: 22-000026
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 was held on February 9, 2022. Petitioner, [REDACTED] appeared and testified on her own behalf. Emily Piggott, Appeals Review Officer, appeared and testified on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS, Respondent or Department). Leslie Slapnik, Adult Services Worker (ASW), and Joy Clegg, Adult Services Supervisor, appeared as witnesses 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 [REDACTED] Medicaid beneficiary, born [REDACTED], 1975, who was referred to HHS on or about November 2, 2021. (Exhibit A, p 12; Testimony)
2. On November 12, 2021, the ASW could not verify Petitioner's Medicaid eligibility, so a Negative Action Notice was sent to Petitioner denying her HHS application. (Exhibit A, p 14; Testimony)
3. On or about November 15, 2021, the Department's eligibility specialist was able to verify Petitioner's Medicaid eligibility and a new referral for HHS was started. (Exhibit A, p 2, 17; Testimony)
4. On November 15, 2021, the Department's ASW mailed Petitioner an HHS application and 54A medical needs form with instructions indicating that,

per policy, the completed forms needed to be returned to the Department within 21 calendar days from the date the forms were mailed to Petitioner, or by December 6, 2021. (Exhibit A, pp 18-19; Testimony)

5. On December 21, 2021, the ASW sent Petitioner an Advance Negative Action Notice informing Petitioner that the application for HHS was denied because the Department did not receive the 54A medical needs within 21 calendar days of November 15, 2021, or by December 6, 2021. (Exhibit A, p 20; Testimony)
6. On January 4, 2022, Petitioner's hearing request 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) 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. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

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

The medical needs form is only required for home help clients at the initial opening of a case, unless one of the following exists:

- The ASW assesses a decline in the client's health which significantly increases their need for services.
- The ASW assesses an improvement in the client's ability for self-care, resulting in a decrease or elimination of services and the client states their care needs have not changed.
- The current medical needs form has a specified time frame for needed services and that time frame has elapsed.

At each case review the ASW must document in the general narrative if a medical needs form is or is not needed.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and **not** the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the Adult Services Worker.

Home help services cannot be authorized prior to the date of the medical professional's signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is **before** the date on the DHS-390, payment for home help services must begin on the date of the application.

Example: The local office adult services unit receives a DHS-54A signed on 07/18/2017 but a referral for home help was never made. The adult services staff enters a referral on MiAIMS and mails an application to the client. The application is returned to the office with a signature date of 08/07/2017. Payment cannot begin until 08/07/2017, or later, if the caregiver was not working during this time period or not enrolled. Refer to ASM 135 for information regarding caretaker enrollment.

Note: If the DHS 390 is received prior to a referral, the date stamp of when the application was received by the local office is used as the referral and application date.

If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

Veteran's Administration (VA)

A DHS-54A completed by a Veteran's Administration physician or the VA medical form in lieu of the medical needs form is acceptable.

*Adult Services Manual (ASM) 115
January 1, 2018, pp 1-2 of 5*

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

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).

*Adult Services Manual (ASM) 105
June 1, 2020, p 1 of 4*

The ASW testified on November 12, 2021 she could not verify Petitioner's Medicaid eligibility, so a Negative Action Notice was sent to Petitioner denying her HHS application. The ASW indicated that on or about November 15, 2021, the Department's eligibility specialist was able to verify Petitioner's Medicaid eligibility and a new referral for HHS was started. The ASW testified that on November 15, 2021, she mailed Petitioner an HHS application and 54A medical needs form with instructions indicating that, per policy, the completed forms needed to be returned to the Department within 21 calendar days from the date the forms were mailed to Petitioner, or by December 6, 2021. The ASW indicated that on December 21, 2021, she sent Petitioner an Advance

Negative Action Notice informing Petitioner that the application for HHS was denied because the Department did not receive the 54A medical needs within 21 calendar days of November 15, 2021, or by December 6, 2021.

Petitioner testified that she started this process back in August 2021 and her 54A Medical Needs form was signed by her doctor in September 2021. Petitioner indicated that she could not believe the Department's ASW received all of her other forms but not the 54A Medical Needs form. Petitioner testified that she is very sick and just needs help.

Per policy, the ASW could not approve Petitioner for HHS without a 54A medical needs form. The evidence shows clearly that the forms were printed and mailed to Petitioner on November 15, 2021, and the completed forms were not received at the Department by December 6, 2021, the 21-day deadline. Accordingly, the denial of Petitioner's HHS must be upheld. While Petitioner requested that the undersigned order the Department to make any future HHS referral retroactive to November 2021 because of the mix up with her Medicaid eligibility, the undersigned has no authority to ignore clear policy and no authority to grant Petitioner any equitable relief. If Petitioner had returned the forms mailed on November 15, 2021 by the deadline, then the case could have been made retroactive to the original referral date of November 2, 2021. However, given that Petitioner never returned those forms, she must contact the Department to begin a new referral. The Department's decision was proper at the time it was made and must be upheld.

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 based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.



Robert J. Meade
Administrative Law Judge

RM/tem

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

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DHHS

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Petitioner

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