

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: June 21, 2022
MOAHR Docket No.: 22-002112
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

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

After due notice, a telephone hearing was held on June 16, 2022. Petitioner appeared and testified on his own behalf. Florence Scott-Emuakpor, Appeals Review Officer, represented the Respondent, Michigan Department of Health and Human Services (DHHS or Department). Shameka Mims, Adult Services Worker (ASW), testified as a witness for the Department, with Yvette DeBerry, Adult Services Supervisor, also present.

ISSUE

Did the Department properly deny 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 is a Medicaid beneficiary who was referred for HHS through the Department on April 18, 2022. (Exhibit A, pages 9-10).
2. As part of his application, Petitioner submitted a medical needs form signed by his doctor. (Exhibit A, page 14).
3. On that form, both yes and no were checked in the section asking the doctor to certify that Petitioner had a medical need for assistance with personal care activities. (Exhibit A, page 14).
4. Petitioner has checked yes while his doctor checked no. (Exhibit A, page 16; Testimony of Petitioner; Testimony of ASW).

5. On April 28, 2022, the Department sent Petitioner written notice that his request for HHS was denied because no valid certified medical needs form had been received. (Exhibit A, page 15).
6. On May 11, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the Request for Hearing filed in this matter with respect to that denial. (Exhibit A, pages 6-8).

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 statutes, 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.

HHS are governed by the applicable Adult Services Manuals (ASMs) and, with respect to the eligibility criteria for such services, ASM 105 (6-1-2020) provides in part:

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).

ASM 105, page 1

Moreover, with respect to the certification of medical need requirement, ASM 105 also provides in part:

Certification of Medical Need

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled

medical professional. The medical professional must hold one of the following professional licenses . . .

ASM 105, page 3

Additionally, with respect to the required medical needs form, ASM 115 (9-1-2021) further states in part:

DHS-54A, MEDICAL NEEDS FORM

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 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 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 specialist.

*ASM 115, pages 1-2
(emphasis added)*

Here, the Department denied Petitioner's application for HHS on the basis that no valid medical needs form was received as part of Petitioner's application as required to approve HHS.

In particular, the ASW testified that the medical needs form received as part of Petitioner's application had both yes and no checked in the section asking the doctor to

certify that Petitioner had a medical need for assistance with personal care activities. The ASW also testified that she then followed up with the doctor, who indicated that he had checked no.

In response, Petitioner testified that he completed the sections of the form he believed he needed to complete prior to submitting it to the doctor, including the section asking the doctor to certify that Petitioner had a medical need for assistance with personal care activities. He also testified that he has significant medical issues and needs assistance.

Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred in denying his request for HHS.

Given the evidence in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet his burden of proof and that the Department's decision must therefore be affirmed. Per the above policy, for Petitioner to be found eligible for HHS, the Department must receive a medical needs form signed by a Medicaid enrolled provider that certifies a medical need for personal care services related to an existing medical condition for Petitioner and no such form was received in this case. With the form inconclusive; Petitioner's doctor reporting that he did not certify such a need; and Petitioner testifying on the record that he is the one who checked yes in the certification section. Moreover, even if Petitioner completing sections of the form was an error he made in good faith, the required medical needs form certifying Petitioner's need for assistance with personal care activities was not provided, and the Department therefore properly denied Petitioner's request for HHS.

As discussed during the hearing, to the extent Petitioner needs services and a Medicaid enrolled provider is willing to provide a complete medical needs form, then Petitioner can always reapply for HHS along with that new form. With respect to the decision at issue in this case, however, the Department's decision must be affirmed given the information that it was given.

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 THEREFORE ORDERED that:

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



SK/tem

Steven Kibit
Administrative Law Judge

NOTICE OF APPEAL: Petitioner 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

Via Electronic Mail:

DHHS Dept Contact

Michelle Martin
Capitol Commons Center
400 S. Pine, 6th Floor
Lansing, MI 48933
MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Sherry Reid
MDHHS
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202
MDHHS-Wayne-82-Hearings@michigan.gov

DHHS Department Rep.

M. Carrier
MDHHS
Appeals Section
P.O. Box 30807
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Agency Representative

Florence Scott-Emuakpor
MDHHS
Appeals Section
P.O. Box 30807
Lansing, MI 48933
ScottF@michigan.gov

Via First Class Mail:

Petitioner

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