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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: September 21, 2022
MOAHR Docket No.: 22-003530
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; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on September 15, 2022. [REDACTED], Friend of the Family, appeared on behalf of Petitioner. Petitioner also appeared but did not participate in the proceeding. Leigha Burghdoff, Appeals Review Officer, appeared on behalf of Respondent, the Michigan Department of Health and Human Services (Department). Jennifer Rhodes, Adult Services Worker (ASW), appeared as a witness for the Department.

Exhibits:

Petitioner None

Department A – Hearing Summary
B – Updated 54A

ISSUE

Did the Department properly close Petitioner's Home Help Services (HHS) case?

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 has been diagnosed with lumbar degenerative disc disease and lumbar radiculitis. (Exhibit A, pp 2, 11; Testimony).

2. On July 19, 2022, a face-to-face assessment took place with Petitioner. During the assessment, Petitioner demonstrated he was capable of ambulating up and down the flights of stairs leading to his apartment and reported that he was able to safely and independently complete all Activity of Daily Living (ADL), and Instrumental Activities of Daily Living (IADL). Petitioner further agreed to the closure of his HHS case. (Exhibit A, pp 2, 8, 14, 15; Testimony.)
3. On July 31, 2022, the Department sent Petitioner an Advance Negative Action Notice. The notice indicated Petitioner's HHS benefits were being terminated following his agreement to close his case and his ability to safely handle his own ADL's and IADL's. (Exhibit A, p 7; Testimony.)
4. On August 16, 2022, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, pp 5-6.)

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.

The Adult Services Manual (ASM) address issues of what services are included in Home Help Services and how such services are assessed:

ASM 101 AVAILABLE SERVICES

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the home help services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

Home help services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds.

These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, intermediate care facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities **must** be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **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 which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Light housecleaning.

An individual must be assessed with at least one activity of daily living (ADL) ranked 3 or higher or complex care need in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services if assessed at a level 3 or greater.

Services not Covered by Home Help

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive.¹

ASM 105 ELIGIBILITY CRITERIA

GENERAL

Requirements

Home help eligibility requirements include **all** of the following:

¹ ASM, Available Services, April 1, 2018, pp 1-2, 5.

- Medicaid eligibility.
- Appropriate Program Enrollment Type (PET) status.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for at least one activity of daily living (ADL).

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:

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

The DHS-54A or veterans administration medical form are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

Need for Service

The adult services worker (ASW) is responsible for determining the necessity and level of need for home help services based on all of the following:

- Client choice.
- A completed MDHHS-5534, Adult Services Comprehensive Assessment. An individual must be

assessed with at least one activity of daily living (ADL) in order to be eligible to receive home help services.²

ASM 115 ADULT SERVICES REQUIREMENTS

COMPREHENSIVE ASSESSMENT (MDHHS-5534)

The ASW must conduct a face-to-face interview with the client in their home to assess the personal care needs. During the assessment, complete the MDHHS-5534, Adult Services Comprehensive Assessment, generated from MiAIMS; see ASM 120, Adult Services Comprehensive Assessment.

CONTACTS AND PROVIDER CONTACTS

Within the Contacts module of MiAIMS, the following contact types are available:

- Face-to-face.
- Telephone.
- Miscellaneous.
- Email.
- Text.
- Case conference with supervisor.
- Narrative entry only.

The ASW must document all contacts between the ASW, client, provider, and collateral contacts in MiAIMS.

The ASW must, at a minimum, have a face-to-face interview with the client, prior to case opening, and then every six months in the client's home for the review.

The ASW must complete an initial face-to-face interview with the Home Help caregiver in the client's home or local Michigan Department of Health and Human Services (MDHHS) office. The caregiver is the person providing direct care to the client. The ASW must make a face-to-face or

² Adult Services Manual, Eligibility Criteria, June 1, 2020, pp 1, 4.

phone contact with all caregivers at the next review to verify services are being furnished.

Note: If the ASW makes contact by phone, the caregiver must offer identifying information such as date of birth and the last four digits of their Social Security number. The ASW must complete a face-to-face interview in the client's home or local MDHHS office at the next review.³

ASM 120 ADULT SERVICES COMPREHENSIVE ASSESSMENT

INTRODUCTION

The MDDHS-5534, Adult Services Comprehensive Assessment, is the primary tool for determining need for services. The comprehensive assessment must be completed on all open home help services cases. Michigan Adult Integrated Management System (MiAIMS), provides the format for the comprehensive assessment and all information must be entered on the computer program.

Functional Tab

The **Functional** Tab under **Assessment** module of MiAIMS is the basis for service planning and for the home help services payment.

Document the client's abilities and needs in the functional abilities tab to determine the client's ability to perform the following activities:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

³ ASM, Adult Services Requirements, September 1, 2021, pp 3-6.

Instrumental Activities of Daily Living (IADL)

- Taking Medication.
- Meal preparation and cleanup.
- Shopping.
- Laundry.
- Light housework.

Functional Scale

ADLs and IADLs are assessed according to the following five point scale:

1. Independent.

Performs the activity safely with no human assistance.

2. Verbal assistance.

Performs the activity with verbal assistance such as reminding, guiding or encouraging.

3. Some human assistance.

Performs the activity with some direct physical assistance and/or assistive technology.

4. Much human assistance.

Performs the activity with a great deal of human assistance and/or assistive technology.

5. Dependent.

Does not perform the activity even with human assistance and/or assistive technology.

Home help payments may only be authorized for needs assessed at the level 3 ranking or greater.

An individual must be assessed with at least one activity of daily living ranked 3 or higher or a complex care need in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the

department, the individual would be eligible to receive IADL services if assessed at a level 3 or greater.⁴

ASM 170 CASE CLOSURE

Termination of Home Help Payments

Home Help payments may be terminated and closing procedures initiated, in any of the following circumstances:

- The client fails to meet any of the eligibility requirements.
 - Not Medicaid eligible.
 - Medical professional does not certify a need for services on the DHS-54A, Medical Needs, form.
 - Assessment determines client no longer requires Home Help services.
- The client no longer wishes to receive Home Help services.
- The client is receiving services from another program which would result in a duplication of services.⁵

The ASW testified that the HHS case was being closed as a result of Petitioner agreeing to close the case due to his ability to safely handle all of his own ADL's and IADL's.

Petitioner's representative provided hearsay testimony indicating Petitioner never agreed to the case being closed. Petitioner was present for the hearing but was never asked to testify to the event and conversation in question.

Additional evidence provided by the Department reflect Petitioner as not having a need for ADL assistance and thus corroborates at least a portion of the conversation.

⁴ ASM 120, April 1, 2021, pp 1-3.

⁵ ASM 170, July 1, 2022, p 2.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that the Department erred in closing his HHS case. The credible evidence establishes Petitioner as requesting his case be closed and furthermore, ASM 170 permits the Department to close HHS cases when clients no longer wish to receive services. Accordingly, the closure of Petitioner's HHS case was proper 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 closed Petitioner's HHS case based on the available information.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

CA/dh

J. A. Arendt
Corey Arendt
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

Via Electronic Mail:

DHHS Department Contact

Michelle Martin
Capitol Commons
400 S. Pine Street, 6th Floor
Lansing, MI 48909
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Via First Class Mail:

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