



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 9, 2023
MOAHR Docket No.: 22-004909
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 November 30, 2022. [REDACTED] Petitioner's caregiver and authorized hearing representative, appeared on Petitioner's behalf. Leigha Burghdoff, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Cherlane Howell-Daniell, Adult Services Worker (ASW), appeared as witnesses for the Department.

Exhibits:

- | | |
|------------|---------------------|
| Petitioner | 1 – Misc. Records |
| Department | A – Hearing summary |

ISSUE

Did the Department properly determine the start date of the Petitioner's Home Help Services (HHS)?¹

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On July 11, 2022, the Department received from Petitioner, a Home Help Services application along with a completed 54-A Medical Needs form. The 54-A was signed on June 13, 2022. (Exhibit A, pp 6, 14-15; Testimony.)

¹ Petitioner's exhibit 1 identified other issues than those found in their initial appeal. The Petitioner was encouraged to request additional time from Petitioner's ASW and if unsatisfied to request a hearing regarding that issue.

2. On August 17, 2022, an assessment was performed. (Exhibit A, p 12; Testimony.)
3. On August 22, 2022, the Department sent Petitioner a services approval notice. The notice indicated Petitioner was approved for HHS effective August 17, 2022. (Exhibit A, p 11; Testimony.)
4. On October 12, 2022, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, p 5.)

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) 101, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living 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.²

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

IMPORTANT DATES

When a signed DHS-390, Adult Services Application, serves as the initial request for services, the referral date must be the date the application was received in the local office.

² ASM 101, April 11, 2018, p 1.

The date that a valid client or guardian signature is received in the local office is the application date.

The DHS-54A, Medical Needs form does not serve as the application for services. If the signature date on the DHS-54A is **before** the DHS-390 received date, payment for Home Help services **MUST** begin on the application date.

Do not authorize Home Help services prior to the date on the medical professional's signature on the DHS-54A.

The case opening date for a Home Help case is the latter of the DHS-390 received date and the DHS-54A medical provider signature date.³

In this case, the Department testified the start date of services should be the date of the assessment. The Department however failed to identify any specific policy that supports their actions. In fact, the policy provided by the Department indicates the start date of services should be the date of application [REDACTED] as the 54-A was executed prior to the date the application was received.⁴

The policy governing this matter is straight forward. The policy requires the Department to use the latter of the application date or 54A submission date as the first date of service.

In this case, the Department clearly erred in their actions and failed to provide any policy to support their position. Consequently, the Department is ordered to initiate the redetermination of the service start date and issue retroactive benefits if otherwise eligible and qualified.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly determined the effective start date of Petitioner's HHS eligibility.

³ ASM 115, January 1, 2018, pp 3.

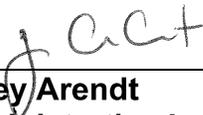
⁴ *Id.* "...payment for Home Help services **MUST** begin on the application date." The only exception would be inf the caregiver was not working during the time period or was not enrolled in CHAMPS.

IT IS THEREFORE ORDERED THAT:

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

The Department is ordered to initiate the redetermination of the service start date and issue retroactive benefits if otherwise eligible and qualified.

CA/vc



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
Lansing, MI 48909
MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Sherry Reid
MDHHS-Greenview Adult Services District Wayne
County, BSC-4
Detroit, MI 48219
MDHHS-WC-MAHSHearing@michigan.gov

DHHS Department Representative

M. Carrier
Department Community Health
MDHHS
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Agency Representative

Leigha Burghdoff
P.O. Box 30807
Lansing, MI 48909
MDHHS-appeals@michigan.gov

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]