



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 24, 2024
MOAHR Docket No.: 23-007910
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 a request for a hearing.

After due notice, a telephone hearing was held on January 4, 2024. Petitioner [REDACTED] (Petitioner) appeared and testified on her own behalf. [REDACTED] Petitioner's granddaughter and provider, also testified as a witness for Petitioner. Florence Scott-Emuakpor, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Shannon Ramsey, Adult Services Worker (ASW), and Kelly Williams, Adult Services Supervisor, testified as a witness for the Department.

During the hearing, the Department submitted two evidence packets that were admitted into the record without objection as Exhibit A, pages 1-42, and Exhibit B, pages 1-46, respectively. Petitioner did not submit any exhibits.

ISSUE

Did the Department improperly terminate Petitioner's Home Help Services (HHS) or fail to make payments for HHS provided between September 1, 2023, and November 7, 2023?

FINDINGS OF FACT

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

1. In December of 2019, Petitioner was approved for HHS through the Department. (Exhibit B, page 11).
2. On July 18, 2023, the ASW sent Petitioner written notice to Petitioner's listed address in the Department's computer system; [REDACTED]

██████ MI ██████ that a home visit had been scheduled for August 7, 2023. (Exhibit B, pages 12, 14; Testimony of ASW).

3. The notice was not returned as undeliverable. (Testimony of ASW).
4. On August 7, 2023, no one answered the door at ██████████ when the ASW arrived for the home visit. (Exhibit B, pages 12, 14; Testimony of ASW).
5. The ASW then telephoned Petitioner and left a message. (Exhibit B, page 12; Testimony of ASW).
6. On August 9, 2023, the ASW attempted to complete an unannounced home visit at ██████████ but no one answered. (Exhibit B, page 12; Testimony of ASW).
7. The ASW and Petitioner did speak on the telephone, and they scheduled a home visit for August 16, 2023. (Exhibit B, page 12).
8. On August 16, 2023, no one answered the door at ██████████ when the ASW arrived for the home visit. (Exhibit B, page 13; Testimony of ASW).
9. The ASW also telephoned Petitioner twice, with no response. (Exhibit B, page 13; Testimony of ASW).
10. On September 6, 2023, the Department sent Petitioner written notice that her HHS would be terminated as of September 20, 2023, because attempts at completing the required six-month review in August of 2023 had been unsuccessful and there had not been further contact from Petitioner to reschedule. (Exhibit B, page 13).
11. The notice was not returned as undeliverable. (Testimony of ASW).
12. Petitioner's case subsequently closed on September 20, 2023. (Testimony of ASW).
13. No electronic or paper service verification was subsequently submitted for any services provided in September of 2023. (Testimony of Petitioner's provider; Testimony of ASW).
14. On October 12, 2023, Petitioner was again referred for HHS. (Exhibit A, page 12).
15. In her application, Petitioner identified a new address: ██████████
██████ MI, ██████ (Exhibit A, page 12; Testimony of Petitioner)

16. A new case for Petitioner was subsequently opened in November of 2023, with payments beginning for services provided on and after November 8, 2023. (Exhibit A, page 18).
17. On November 15, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed by Petitioner in this matter with respect to the decision to terminate her HHS and the lack of payments for services provided before her new case was opened. (Exhibit B, pages 6-10).

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.

Regarding reviews of open HHS cases, Adult Services Manual (ASM) 155 (2-1-2019) states in part:

CASE REVIEWS

Home Help cases must be reviewed every six months.

Requirements for case review must include:

- A face-to-face contact is required with the client in the home.
 - Review of client satisfaction with the delivery of planned services and care provided by the caregiver or agency.
 - Follow-up on any absences or hospitalization coming up or since the last home visit.
- A face-to-face or phone contact must be made with the caregiver or agency provider at each review to verify services are being furnished.

Note: If contact is made by phone, the caregiver or agency provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local Michigan Department of Health and Human Services (MDHHS) office must take place at the next review.

- A review of the current comprehensive assessment and plan of care.
- Verification of the client's Medicaid eligibility, when Home Help services are being paid.
- Follow-up collateral contacts with significant others such as family, guardians, and friends to assess their role in the plan of care, if applicable.

Documentation

Case documentation for **all** reviews must include:

- A new face to face contact should be logged as an SOP event type "six-month review" in MiAIMS contact module. The contact should include that the client was in the home and a brief statement of the requirements of the home visit, the nature of the contact and who was present during the home visit.
- Entering the "six-month review" SOP event type face to face contact with the client automatically updates the disposition details on the 360-overview tab.

Note: A face to face contact entry with the client generates a case management billing.

- A review of **all** MiAIMS modules and tabs with information updated as needed.
- Documented contact details with the Home Help caregiver or agency provider in the contact module on MiAIMS.
- Update new information obtained in the MDHHS-5534, Comprehensive Assessment, modules in MiAIMS.

- The MDHHS-5537, Plan of Care, is automatically updated when areas of concern are identified as an issue in the comprehensive assessment.
- Change in caregivers or agency providers if required.
- Add new authorization for services continuing.
- Send notification if services have been increased or decreased; see: ASM 150 Notification of Eligibility Determination

ASM 155, pages 1-2

Here, the Department terminated Petitioner's HHS pursuant to the above policies and on the basis that the Department was unable to complete the required, face-to-face six-month review with Petitioner.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence, that the Department erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof, and the Department's decision must be affirmed.

As provided above, HHS cases must be reviewed every six months and it is undisputed that no such review was completed in this case despite multiple attempts being made, with the ASW sending a letter before one attempt; the ASW trying a second time while in the neighborhood; and the ASW making a third attempt at a date and time specifically agreed to by Petitioner.

The record further reflects that the attempts failed at least in part because Petitioner moved in April or May of 2023, and the ASW was going to Petitioner's old address. However, the ASW was also going to the address for Petitioner identified in the Department's computer system and to which she was sending notices, with no mail ever being returned. Moreover, while both Petitioner and her provider testified that they informed Petitioner's previous worker of the move, that testimony is unsupported by any other evidence and the undersigned Administrative Law Judge does not find them credible. It is Petitioner's responsibility to inform the Department of any move; she failed to do so here; the required review was not completed due to Petitioner's failure; and the termination was therefore proper.

Additionally, while Petitioner and her provider also dispute the lack of payments for HHS provided between September 1, 2023, and November 7, 2023, the record likewise fails to demonstrate any error by the Department. For example, as provided in the notice of

termination, Petitioner's case closed as of September 20, 2023, and, consequently, no HHS were authorized or could be paid for between that date and the date when Petitioner's new HHS case opened. *i.e.*, November 8, 2023. Moreover, while HHS were authorized and could have been paid for services between September 1, 2023, and September 19, 2023, it is undisputed that no electronic or paper service verification was submitted as required, and the provider's testimony that the Department's computer system prevented her from doing so is unsupported.

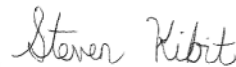
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department both properly terminated Petitioner's HHS and did not make any payments for HHS between September 1, 2023, and November 7, 2023.

IT IS, THEREFORE, ORDERED that:

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

SK/sj



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

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 24th day of January 2024.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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Via First Class Mail:

Petitioner

[REDACTED]
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