



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: April 24, 2024
MOAHR Docket No.: 24-002675
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 April 23, 2024. [REDACTED] Petitioner's mother and provider, appeared and testified on Petitioner's behalf. [REDACTED] Petitioner, appeared as a witness. Allison Pool, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Christine Harper, Adult Services Worker (ASW) appeared as a witness for the Department.

ISSUE

Did the Department properly terminate Petitioner's 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 has been receiving HHS since May 23, 2014. (Exhibit A, p 8; Testimony.)
2. Petitioner's mother is his HHS provider. (Exhibit A, p 3; Testimony.)
3. On December 20, 2023, the ASW conducted a six-month review in Petitioner's home. (Exhibit A, p 9; Testimony.) During this review, Petitioner informed the ASW that he was married on November 6, 2023. (*Id.*) The ASW informed Petitioner that she would need employment verification from Petitioner's spouse. (*Id.*)

4. On January 26, 2024, the ASW spoke to Petitioner's spouse via telephone and was told that Petitioner's spouse was no longer working, as of January 25, 2024. (Exhibit A, p 12; Testimony.)
5. According to a 54-A Medical Needs Form for Petitioner's spouse, she has not been certified by a medical professional as having disabilities of her own that would prevent her from providing care to Petitioner. (Exhibit A, p 17.)
6. Department policy states that HHS may not be authorized for services that a responsible relative, such as a spouse, is able and available to provide. (Adult Services Manual (ASM) 101, 4-1-18, pp 4-5.)
7. On February 15, 2024, the Department sent an Advance Negative Action Notice to Petitioner indicating that his HHS would be terminated because there was a responsible relative residing in the home with Petitioner; and the ASW received no verification that the spouse was unable or unavailable to care for Petitioner. (Exhibit A, p 14; Testimony.)
8. On March 20, 2024, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, pp 3-7.)

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) 120 addresses responsible relatives:

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

Activities of daily living (ADL) may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other

legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general *Contacts* in MiAIMS.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The ASW would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks and is able to complete these tasks on the weekends.

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ASM 101 lists services not covered by HHS:

Services not Covered by Home Help

Home help services must not be approved for the following:

- 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 parent of an unmarried child under the age of 18.

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The ASW testified that on December 20, 2023, she conducted a six-month review in Petitioner's home and learned that Petitioner had recently married. The ASW indicated

that on January 26, 2024, she learned that Petitioner's spouse was no longer working, as of January 25, 2024. The ASW testified that a 54-A Medical Needs Form for Petitioner's spouse also does not certify that Petitioner's spouse has disabilities of her own that would prevent her from providing care to Petitioner, as required by policy. The ASW indicated that based on the above, on February 15, 2024, she sent an Advance Negative Action Notice to Petitioner indicating that his HHS would be terminated because there was a responsible relative residing in the home with Petitioner, and the ASW received no verification that the spouse was unable or unavailable to care for Petitioner.

Petitioner's mother and provider testified that she has been caring for her son since 2014 as he has had difficulty getting work because of an injury to his spine. Petitioner's mother and provider indicated that she prepares his foods, does his grocery shopping, and takes care of things around the house. Petitioner's mother and provider testified that Petitioner can lift things or walk for a short time, but if he bends over he is in a lot of pain. Petitioner's mother and provider testified that while Petitioner did get married, she still does everything for him that she did before except that his spouse now washes his back. Petitioner's mother and provider testified that Petitioner's spouse did work for a couple months after they were married but lost her job because she took too many sick days due to her own health issues. Petitioner's mother and provider testified that Petitioner's spouse is applying for jobs but is currently not working. Petitioner's mother and provider indicated that Petitioner's spouse buys and cooks her own food. Petitioner's mother and provider testified that Petitioner does work for Door Dash, but he is only able to do it because he is an independent contractor and can work whenever he is able.

Petitioner testified that his spouse does have her own medical issues even though the doctor did not certify her as having a need for assistance. Petitioner indicated that his spouse had a car accident a few years ago and hurt her hip, which stops her from doing many tasks. Petitioner testified that this is why she lost her last job. Petitioner indicated that his spouse cannot do heavy lifting or any manual labor around the house. Petitioner testified that his mother does all the manual labor around the house and deserves to be compensated.

As indicated above, ASM 120 defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. ASM 101 indicates that HHS is not covered if there is a responsible relative living in the home, who is able and available to provide care. According to policy, "[u]navailable means absence from the home for an extended period due to employment, school or other legitimate reasons." And, "[u]nable means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs form."

Here, Petitioner's spouse meets the definition of a responsible relative, and no evidence was presented to the Department showing that Petitioner's spouse was unable or unavailable to provide care to Petitioner as of the date of action in this matter. Petitioner's spouse is currently not working outside the home and has not worked

outside the home since January 25, 2024. As such, Petitioner's spouse is available to provide HHS to Petitioner. And Petitioner's spouse does provide part of Petitioner's care by washing his back. Furthermore, Petitioner's spouse has not been certified by a medical professional as having disabilities of her own that would prevent her from providing care to Petitioner. As such, Petitioner is able to provide HHS to Petitioner, according to policy.

Given the above, Petitioner's HHS was properly terminated based on the information available to the ASW at the time of the denial.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated Petitioner's HHS based on the information available at the time of the denial notice.

IT IS THEREFORE ORDERED THAT:

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



RM/PE

Robert J. Meade
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:

Agency Representative

Allison Pool
MDHHS Appeals Section
Lansing, MI 48909
PoolA@michigan.gov

DHHS Department Contact

Michelle Martin
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MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Heather McBride
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DHHS Department Representative

Mary Carrier
MDHHS Appeals Section
Lansing, MI 48909
MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner and Authorized Hearing Representative

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