



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 1, 2024
MOAHR Docket No.: 24-008687
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 September 11, 2024. Petitioner [REDACTED] (Petitioner) appeared and testified on her own behalf. Emily Piggott, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Janice Thompson, Adult Services Worker (ASW), and Margo Peterson, Adult Services Supervisor, testified as witnesses for the Department.

During the hearing, the Petitioner's request for hearing was admitted into the record without objection as Exhibit #1, pages 1-2. The Department also submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-34. No other proposed exhibits were submitted.

ISSUE

Did the Department properly decide to 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. Beginning in 2014, Petitioner was approved for HHS through the Department. (Exhibit A, page 4).
2. In the most recent authorization of services, the Department approved Petitioner for 51 hours and 31 minutes per month of HHS for the period of January 1, 2024, through June 30, 2024. (Exhibit A, page 12).

3. That authorization of HHS, and payments for HHS, ended on June 30, 2024. (Testimony of Petitioner; Testimony of Adult Services Supervisor).
4. On July 8, 2024, ASW Thompson, who was temporarily assigned to Petitioner's case while Petitioner's worker was on leave, sent Petitioner a letter stating that a home visit had been scheduled for July 15, 2024. (Exhibit A, page 9; Testimony of ASW).
5. The letter also advised Petitioner to contact ASW Thompson as soon as possible if Petitioner needed to reschedule. (Exhibit A, page 9).
6. Petitioner received the letter scheduling the home visit for July 15, 2024. (Testimony of Petitioner)
7. On July 15, 2024, the ASW attempted to complete the home visit, but Petitioner was not there. (Exhibit A, page 9; Testimony of Petitioner; Testimony of ASW).
8. That same day, the Department sent Petitioner written notice that her HHS would be terminated as of July 29, 2024. (Exhibit A, page 10).
9. With respect to the reason for the termination, the notice stated:

A scheduled home visit was made on 7/15/24, to complete your 6-month review. You were unavailable. I must see you and the provider face-to-face prior to any further HHC authorizations. Please contact me to reschedule another home visit prior to the above date.

Exhibit A, page 10

10. The notice specifically identified the worker to contact a "J. Thompson" and gave her telephone number. (Exhibit A, page 10).
11. On July 31, 2024, 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. (Exhibit #1, pages 1-2).

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 155 (2-1-2018) 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
(italics added for emphasis)*

Moreover, regarding case closures, ASM 170 (7-1-2022) states in part:

Home Help cases may be closed due to a number of reasons. The case must have all documentation, including any updated assessment information, and new contacts entered in MiAIMS before the case is closed.

- Case closing information must be entered in MiAIMS.
- Any comments that may prove helpful in the future should be included in the closing summary.

Note: If a new assessment determines the client no longer needs hands-on services for any activities of daily living (ADLs), the adult services worker (ASW) must update the assessment to reflect the change in the client's needs prior to closing the case.

The ASW must generate a DHS-1212, Advanced Negative Action Notice, from MiAIMS and mail to the client or their guardian/designated representative; see ASM 150, Notification of Eligibility.

The payment authorizations to individual caregivers and agency providers must be terminated in MIAIMS.

Note: The adult services worker may choose to suspend payments, and delay case closure, if it appears the situation may be temporary.

* * *

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.

ASM 170, pages 1-2

Here, the Department terminated Petitioner's HHS pursuant to the above policy 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 not met that burden of proof, and the Department's decision must therefore be affirmed.

As provided above, HHS cases must be reviewed every six months, with a face-to-face contact with the home help client, and it is undisputed that no such review was completed in this case. It is also undisputed that Petitioner failed to be present for the properly scheduled visit where the six-month review was to be completed.

Petitioner credibly testified that the review was already overdue at the time the worker scheduled the visit in this case, but that does not excuse her failure to appear for the properly scheduled visit. Nor does it excuse her failure to timely contact the ASW following the failed attempt; and, while Petitioner testified that she was trying to contact her old worker to reschedule the visit, ASW Thompson identified her name and contact information on both the notice of home visit and notice of termination, and Petitioner should have contacted her.

Accordingly, for the reasons discussed above, the termination of Petitioner's HHS must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly terminated Petitioner's HHS.

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 1st day of October 2024.

S. James

S. James
**Michigan Office of Administrative
Hearings and Rules**

Via Electronic Mail:

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Via First Class Mail:

Petitioner

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