



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: November 22, 2024

MOAHR Docket No.: 24-011248

Agency No. [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

DECISION AND ORDER

This matter is before the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on November 13, 2024. [REDACTED] Petitioner's friend, appeared and testified on Petitioner's behalf. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Mikia Dunham, Adult Services Worker (ASW), testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-46. Petitioner did not submit any proposed exhibits.

ISSUE

Did the Department properly deny Petitioner's request for 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. On August 19, 2024, Petitioner was referred for HHS through the Department. (Exhibit A, page 19).
2. In her application, Petitioner stated that she married and lived with her spouse. (Exhibit A, page 10).
3. On September 10, 2024, the ASW completed an assessment with Petitioner in Petitioner's home. (Exhibit A, page 26).

4. During that assessment, Petitioner reported that her spouse worked six (6) days a week, 3:00 p.m. to 11:00 p.m. (Exhibit A, page 26; Testimony of ASW).
5. However, Petitioner also provided a letter from her spouse's employer indicating that he worked forty (40) hours per week. (Exhibit A, pages 26, 28; Testimony of ASW).
6. Petitioner did not provide a completed Verification of Employment form or a written work schedule from Petitioner's spouse's employer; she was provided with the form; and she was directed that she needed to have it completed and returned by September 19, 2024. (Exhibit A, page 26; Testimony of ASW).
7. The Department did not receive a completed Verification of Employment form or written work schedule with respect to Petitioner's spouse by September 19, 2024. (Testimony of ASW).
8. On September 25, 2024, the Department sent Petitioner written notice that her request for HHS was denied. (Exhibit A, page 27).
9. On October 7, 2024, MOAHR received the request for hearing filed in this matter with respect to that denial. (Exhibit A, pages 8-18).
10. As part of that request, Petitioner provided a completed Verification of Employment form, including a work schedule, with respect to her spouse. (Exhibit A, pages 12-14).

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 services available through the home help program, Adult Services Manual (ASM) 101 (4-1-2018) states in part:

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 a parent of an unmarried child under age 18.

ASM 101, pages 4-5

Similarly, ASM 120 (5-1-2023) states in part:

Responsible Relatives

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

Activities of daily living (ADLs) 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 *Contacts* module in MiAIMS.

Example: Mrs. Smith needs Home Help services. Her spouse is employed and is out of the home Monday through

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.

ASM 120, pages 7-8

Additionally, ASM 135 (7-1-2024) states in part:

The client has the right to choose their Home Help caregiver(s). The client is the employer and may terminate the caregiver's employment at any time. Home Help services are a benefit to the client and earnings for the caregiver.

Do **not** pay Home Help services to:

- A responsible relative (a spouse caring for a spouse or a parent caring for a minor child).

Note: Individuals who are married, but separated from their spouse, must provide verification that they are no longer residing in the same home (responsible relatives must be unable or unavailable for the client to be eligible to receive Home Help services). Verification may include their driver's license, rent receipt, or utility bill reflecting their separate mailing address. A spouse who is separated from a spouse cannot be the individual paid to provide Home Help services.

ASM 135, page 1

As discussed above, the Department denied Petitioner's request for HHS in this case pursuant to the above policies regarding responsible relatives.

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

Given the record and applicable policies, Petitioner has failed to meet that burden of proof; and the Department's decision must, therefore, be affirmed.

As expressly provided above, HHS cannot be approved for services that a responsible relative, such as a spouse, is able and available to provide. Nor can payments for HHS be made to a responsible relative, as in cases where a spouse is caring for his or her spouse.

Here, it is undisputed that Petitioner is married and that her spouse is able to provide care. Moreover, while Petitioner indicated that her spouse was unavailable to provide the necessary care due to his work schedule, she supplied conflicting information regarding her spouse's availability and failed to provide the required verification of employment containing a work schedule. Additionally, while Petitioner provided additional information as part of her request for hearing, including a work schedule, the Department did not have that information at the time of the decision in this case and the undersigned ALJ is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

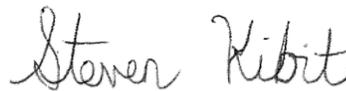
To the extent that Petitioner has additional information to provide, she can always request HHS again in the future along with that new or updated information. With respect to the decision at issue in this case, however, the Department's decision must be affirmed given the available information and applicable policies.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

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



Steven Kibit
Administrative Law Judge

SK/sj

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 22nd day of November 2024.

S. James

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

Via Electronic Mail:

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