



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

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MI [REDACTED]

Date Mailed: December 5, 2024
MOAHR Docket No.: 24-011455
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 26, 2024. Petitioner appeared on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Norshell Mack, Adult Services Worker; and Sheryl Bowers, Adult Services Manager, appeared as a witnesses for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly not issue payments to Petitioner for not having an enrolled Provider?

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 or around October 29, 2018, Petitioner began receiving Home Help Services (HHS). (Exhibit A, p 12.)

2. On August 19, 2024, the Department sent Petitioner a Home Visit Letter. The letter informed Petitioner of a home visit scheduled for August 29, 2024. (Exhibit A, p 13.)
3. On August 29, 2024, the Petitioner participated in an assessment. During the assessment, Petitioner reported her HHS worker last worked on July 31, 2024, and that she was in the process of trying to find a new provider. (Exhibit A, p 14.)
4. On September 9, 2024, the Department sent Petitioner an Advance Negative Action Notice. The notice indicated Petitioner's HHS would be terminated effective September 23, 2024, as a result of Petitioner not participating in an assessment. (Exhibit A, p 8.)
5. On October 18, 2024, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Exhibit A, p 7.)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 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 health professional and may be provided by individuals or by private or public agencies.

In this case, it was alleged Petitioner's case was currently open; but payments were being suspended while Petitioner acquires a new Provider.

Adult Services Manual (ASM) 170, addresses Suspension of Home Help Payments:

Suspension of Home Help Payments

The adult services worker may suspend payments, rather than terminate payments or initiate closing procedures, in the following circumstances:

- Client's Medicaid has ended, but it appears to be temporary.
- Client does not have an eligible provider. This allows the client time to locate a new individual caregiver or agency provider.
- Client has been admitted into a hospital, nursing facility, or licensed Adult Foster Care/Home for the Aged.

- If the temporary situation has not been resolved in 90 days and there is no expectation that the client will return home in the next 90 days, the ASW may initiate case closure.
- If the ASW is notified prior to the 90-day extension that the client will be in the facility permanently, the ASW may begin case closure sooner.

Note: Any suspended payment action should be temporary. Additional documentation is needed to keep the case open longer. (The DHS-390, Adult Services Application, and the DHS-54A, Medical Needs, form are valid for 90 days after case closure). Case closure procedures should be initiated once it has been determined the situation that resulted in the suspension will not be resolved.

Notification of the Negative Action

When Home Help services are reduced, suspended, or terminated for **any** reason, a DHS-1212, Advance Negative Action Notice, and a DCH-0092, Request for Hearings, must be generated in MiAIMS and sent to the client advising of the negative action and explaining the reason for the action; see ASM 150, Notification of Eligibility, to determine the need for 10-business day notice of negative action.¹

The only Negative Action Notice issued by the Department addressed a failure to participate in an assessment. There is no record of a suspension notice regarding the lack of a Provider.

ASM 170 permits a suspension of benefits when the Client does not have an eligible provider. However, 170 also requires that all suspensions be accompanied by a Negative Action Notice. Consequently, the Department's lack of issuing an Advance Negative Action Notice for the suspension renders their suspension of Petitioner's case improper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department did not act appropriately in suspending Petitioner's HHS payments.

IT IS, THEREFORE, ORDERED that:

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

¹ ASM 170 Case Closure, July 1, 2022, pp 2-4.

The Department is further ordered to reassess the Petitioner and issue retroactive benefits if otherwise eligible and qualified.

CA/pe



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:

Agency Representative

Florence Scott-Emuakpor
MDHHS Appeals Section
P.O. Box 30807
Lansing, MI 48909
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DHHS Department Contact

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DHHS Location Contact

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Via First Class Mail:

Petitioner

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[REDACTED] MI [REDACTED]