



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

Date Mailed: December 23, 2024

MOAHR Docket No.: 24-012394

Agency No.: [REDACTED]

Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

DECISION AND ORDER

On November 14, 2024, Petitioner [REDACTED] requested a hearing to dispute Medicaid services. As a result, a hearing was scheduled to be held on December 18, 2024. Medicaid services hearings are held pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002.

The parties appeared for the scheduled hearing. Petitioner appeared and represented herself. Petitioner had two witnesses: [REDACTED] and [REDACTED]. Respondent Michigan Department of Health and Human Services (Department) had Appeals Review Officer Florence Scott-Emuakpor appear as its representative. Respondent had two witnesses: Karen Madison, adult services worker, and Chrystyna Head, supervisor.

Sworn testimony was taken from both parties, and one exhibit was admitted into evidence. A 32-page packet of documents provided by the Department was admitted into evidence as Exhibit A.

ISSUE

Did the Department properly close 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 was an HHS recipient.
2. Petitioner was due for a six-month review in August 2024.

3. The Department unsuccessfully attempted to schedule a home visit with Petitioner to complete the six-month review.
4. On August 22, 2024, the Department mailed a letter to Petitioner to notify her that an adult services worker would be visiting her home on September 10, 2024, between 11:00 a.m. and 3:00 p.m.
5. On September 10, 2024, an adult services worker contacted Petitioner to verify that she was at home and available for a visit. Petitioner answered and informed the adult services worker that she was not at home, but she could be home in 45 minutes. The adult services worker concluded that she was not going to be able to complete the home visit as scheduled.
6. On September 11, 2024, the Department mailed a negative action notice to Petitioner to notify her that her HHS were going to close, effective September 25, 2024, because the Department was unable to complete a review as required.
7. Petitioner requested a hearing to dispute the Department's decision to close her HHS.

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 order to be eligible for HHS, an individual must have a need for services, based on a comprehensive assessment indicating a need for hands-on assistance with at least one activity of daily living (ADL) or a need for complex care. ASM 120 (May 1, 2023), p. 3. Those activities known as ADL's are eating, toileting, bathing, grooming, dressing, transferring, and mobility. *Id.* at 2-3. Complex care includes care such as catheters, bowel programs, specialized skin care, suctioning, range of motion exercises, wound care, respiratory treatments, ventilators, and injections. *Id.* at 4-5.

The comprehensive assessment is the Department's primary tool for determining a client's need for services. *Id.* at 1. Although a medical professional may certify a client's need for services, it is the Department who determines whether there is a need for services through its comprehensive assessment. ASM 115 (May 1, 2023), p. 2. During the assessment, the Department documents a client's abilities and needs in order to determine the client's ability to perform activities. ASM 120 at 2.

The comprehensive assessment must be periodically updated. It must be updated as often as necessary, but minimally at the six-month review. *Id.* at 1. The six-month review must be completed face-to-face in the client's home. ASM 155 (February 1, 2019), p. 1. In this case, the Department unsuccessfully attempted to complete a six-month review with Petitioner, and the Department closed Petitioner's HHS when the Department was unable to complete it.

An HHS case may be closed when the client is no longer eligible for Medicaid, a medical professional does not certify that the client has a need for services, an assessment determines that the client no longer requires HHS, the client no longer wishes to receive HHS, or the client receives services from another program that would result in a duplication of services. ASM 170 (July 1, 2022), p. 2. None of these circumstances occurred in this case. The Department closed Petitioner's HHS case because it was unable to complete a six-month review with Petitioner. This is not a circumstance listed in ASM 170 that permits the Department to close an HHS case. Thus, the Department did not close Petitioner's HHS in accordance with ASM 170. Therefore, the Department did not properly close Petitioner's HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department did not properly close Petitioner's HHS.

IT IS ORDERED THAT the Department's decision is **REVERSED**. The Department shall reinstate Petitioner's HHS, and the Department shall schedule a new a six-month review in accordance with ASM 155. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

JK/pe



Jeffrey Kemm
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

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Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED] MI [REDACTED]