



Date Mailed: March 20, 2025

Docket No.: 25-004756

Case No.:

Petitioner:



This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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 a request for a hearing filed by Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on March 18, 2025. At Petitioner's request on the record, Kimea Barrette, a representative from a potential provider agency, appeared and testified on Petitioner's behalf. Petitioner also testified as a witness on his own behalf. Emily Piggott, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Brigeda Nelson, 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 1-49. No other proposed exhibits were submitted.

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 November 27, 2024, Petitioner was referred for HHS through the Department. (Exhibit A, page 5).
2. As part of the application, which was completed with the assistance of someone that Petitioner cannot identify, Petitioner indicated that he lived alone. (Exhibit A, page 10).
3. However, during an initial assessment completed on January 9, 2025, Petitioner reported to the ASW that he was married and he lives with his wife. (Exhibit A, page 14; Testimony of Petitioner; Testimony of ASW).
4. Petitioner and his wife also both reported that Petitioner's wife is able to take care of him and provides him with any assistance or care he needs. (Exhibit A, page 14; Testimony of Petitioner; Testimony of ASW).
5. On January 10, 2025, the Department sent Petitioner written notice that his request for HHS was denied. (Exhibit A, pages 17-19).
6. With respect to the reason for the denial, the notice stated in part that Petitioner's request was denied because he is married, his spouse lives with him, and his spouse takes care of his daily living needs. (Exhibit A, page 17).
7. On February 7, 2025, MOAHR received a request for hearing filed by Petitioner in this matter with respect to that denial. (Exhibit A, page 4).

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 8-9

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.

Here, it is undisputed that Petitioner is married and that both Petitioner and his spouse expressly reported to the ASW that Petitioner's spouse lives with him and takes care of all his needs.

Moreover, while Petitioner's representative asserts that Petitioner was confused, Petitioner does not have a legal guardian and the Department was justified in relying on what was reported.

Additionally, while Petitioner testified that his health has worsened since the denial in this case and that his spouse is no longer able to take care of him, due to her own disabilities, the ALJ is limited to reviewing the Department's decision in light of the information it had at the time it made that decision, and it is undisputed that both Petitioner and his spouse reported that the spouse could provide all the assistance Petitioner needs.

To the extent Petitioner's circumstances have changed or he has additional information to provide regarding his spouse's ability to care for him, then he can always request HHS again in the future along with that 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

SK/sj

STEVEN KIBIT
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://rs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to LARA-MOAHR-DCH@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

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 20th day of March 2025.

S. James

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

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