

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 2009-11628 HHS

Case No. ██████████

Load No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, ██████████ (Appellant) personally appeared and testified. ██████████, ██████████, represented the Department of Community Health (Department). ██████████, ██████████ testified as a witness for the Department.

ISSUE

Did the Department properly determine that Appellant was no longer eligible for Home Help Services?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a ██████ year-old Medicaid recipient who was receiving home help services.
2. Appellant has a medical history of insulin-dependent diabetes mellitus, fibroid vaginal tumor, bipolar disorder/depression, anxiety disorder, low back pain, and eczema. (Department Exhibit 1, p. 10)
3. On ██████████, ██████████, the ██████████, went to Appellant's home to conduct a home help services reassessment of Appellant's home help services eligibility. (Department Exhibit 1, p. 9)

4. During the home help services reassessment, ██████████ noted that Appellant appeared to be stable and doing well; and her diabetes was under control since Appellant stopped eating confection sugar. (Department Exhibit 1, p. 9)
5. On ██████████, ██████████ sent Appellant written notice that she would no longer be eligible for home help services. (Department Exhibit 1, p. 4)
6. On ██████████, the State Office of Administrative Hearings and Rules received Appellant's hearing request, protesting the denial of home help services.

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 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.

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Customer choice.
- A complete comprehensive assessment and determination of the customer's need for personal care services.
- Verification of the customer's medical need by a Medicaid enrolled medical professional. The customer is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider.

The Medical Needs form must be signed and dated by one of the following medical professionals:

- Physician
- Nurse Practitioner
- Occupational Therapist
- Physical Therapist

The physician is to certify that the customer's need for service is related to an existing medical condition. The physician does not prescribe or authorize personal care services. If the Medical Needs form has not been returned, the adult services worker should follow-up with the customer and/or medical professional. If the case is closed and reopened within 90 days with no changes in the customer's condition, a new FIA-54A is not necessary.

Do **not** authorize HHS prior to the date of the medical professional signature on the FIA-54A.

Services not Covered by Home Help Services

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2);
- Services provided for the benefit of others;
- Services for which a responsible relative is able and available to provide;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;
- Medical services;

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Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS payment. Conduct a functional assessment to determine the customer's ability to perform the following activities:

Activities of Daily Living (ADL)

- Eating
- Toileting
- Bathing
- Grooming
- Dressing
- Transferring
- Mobility

Instrumental Activities of Daily Living (IADL)

- Taking Medication
- Meal Preparation and Cleanup
- Shopping
- Laundry
- Light Housework

Functional Scale ADL's and IADL's are assessed according to the following five-point scale:

1. Independent – performs the activity safely with no human assistance.
2. Verbal Assistance - performs the activity with verbal assistance such as reminding, guiding or encouraging.
3. Some Human Assistance - performs the activity with some direct physical assistance and/or assistive technology.
4. Much Human Assistance - performs the activity with a great deal of human assistance and/or assistive technology.
5. Dependent - does not perform the activity even with human assistance and/or assistive technology.

Note: HHS payments may only be authorized for needs assessed at the 3 level or greater.

Time and Task The worker will allocate time for each task assessed a rank of 3 or higher, based on interviews with the customer and provider, observation of the customer's abilities and use of the reasonable time schedule (RTS) as a guide. The RTS can be found in **ASCAP** under the **Payment** module, Time and Task screen.

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs except medication.

The limits are as follows:

- 5 hours/month for shopping
- 6 hours/month for light housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

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Appellant is protesting the Department's determination that she is no longer eligible for home help services. During the hearing, Appellant submitted medical documentation, a Persantine Cardiolute Spect Stress Test that was not available to the worker at the time of the last reassessment. Appellant stated that she is seeing a heart doctor because her heart has been "skipping the beat", and she is not sure how she is doing.

The home help services policy states clearly that the Adult Services Worker is responsible for determining the necessity and level of need for services. The Adult Services Worker completed a home help assessment in accordance with Department policy and determined that Appellant was independent in her ability to do all of her activities of daily living (ADLS) and instrumental activities of daily living (IADLs). During Appellant's home help services reassessment, the worker interviewed and observed Appellant. The worker testified credibly that: Appellant was moving around well with no problems using her arms and legs; her diabetes was under control; Appellant had minimal complaints of pain and did not appear to have any impairment that would affect her ability to function, independently; she has witnessed Appellant walking unassisted to a drug store, across a 5-lane street; and Appellant was able to walk unassisted to the DHS local office for her administrative hearing, which is a couple of blocks from Appellant's home.

Appellant failed to provide the necessary evidence to refute the Adult Services worker's home help services assessment. Further, the additional medical documentation that she provided at the hearing fails to establish that she has a severe physical impairment which prevents her from doing her activities of daily living, independently. Accordingly, the Department's denial of Appellant's continued eligibility for home help services must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Appellant was no longer eligible for home help services.

[REDACTED]
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Decision and Order

IT IS THEREFORE ORDERED that:

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

Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 3/27/2009

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.