

4. The Appellant suffers no additional physical impairments that restrict her mobility or functionality.
5. The Appellant's Home Help Services case was transferred to another Adult Services Worker within the Department of Human Services, resulting in a home call by the newly assigned worker.
6. In ██████████ the worker made a home call for the purpose of conducting a comprehensive assessment.
7. At the home call the worker discerned the Appellant's chore provider does not assist her with bathing, dressing or transferring. The worker also learned the chore provider does not assist the Appellant with mobility inside of her home.
8. The Appellant's chore provider completed services logs indicating no assistance is being provided for bathing, dressing or transferring.
9. The Department eliminated the Appellant's HHS payments for bathing, dressing and transferring, based upon what was learned at the comprehensive assessment in ██████████. The overall home help payment was reduced from ██████████ to ██████████.
10. The Appellant seeks home help assistance payments for assistance getting into an automobile or bus in order to go to the store, help reading her mail and increased assistance for meal preparation, dressing and bathing.
11. The Appellant asserts she requires assistance getting into and out of the bathtub/shower for bathing and is unable to button clothing for herself if the buttons are in the back of the garment. She contests the determinations made by the Department worker in part by asserting the worker is lying about the in home assessment.
12. The Appellant requested a hearing ██████████.

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 physician and may be provided by individuals or by

private or public agencies.

Adult Services Manual (ASM 363 10-1-04), pages 2-4 of 26, addresses the issue of assessment:

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (FIA-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will be entered on the computer program.

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the customer in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer's social security card.
- Observe a picture I.D. of the caregiver, if applicable.
- The assessment must be updated as often as necessary, but minimally at the six-month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the agency record.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

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 for food and other necessities of daily living
- Laundry
- 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 for food and other necessities of daily living
- 6 hours/month for housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

These are maximums; as always, if the customer needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

Service Plan Development

Address the following factors in the development of the service plan:

- The specific services to be provided, by whom and at what cost.
- The extent to which the customer does not perform activities essential to caring for self. The intent of the Home Help program is to assist individuals to function as independently as possible. It is important to work with the recipient and the provider in developing a plan to achieve this goal.
- The kinds and amounts of activities required for the customer's maintenance and functioning in the living environment.
- The availability or ability of a responsible relative or legal dependent of the customer to perform the tasks the customer does not perform. Authorize HHS **only** for those services or times which the responsible

relative/legal dependent is unavailable or unable to provide.

- Do **not** authorize HHS payments to a responsible relative or legal dependent of the customer.
- The extent to which others in the home are able and available to provide the needed services. Authorize HHS **only** for the benefit of the customer and **not** for others in the home. If others are living in the home, prorate the IADL's by at least 1/2, more if appropriate.
- The availability of services currently provided free of charge. A written statement by the provider that he is no longer able to furnish the service at no cost is sufficient for payment to be authorized as long as the provider is not a responsible relative of the customer.
- HHS may be authorized when the customer is receiving other home care services if the services are not duplicative (same service for same time period).

Adult Services Manual (ASM) 4-1-2004, Pages 6-7 of 27

In this case the Appellant's functional assessment is contested. The Department's worker performed the assessment at a home call in ██████████ and in conjunction with the information provided on the log completed by the chore provider. The Appellant asserts the worker is lying and putting words in her mouth. Specifically, the Appellant asserts the worker did not ask her questions during the assessment process, rather told her she could fix some of her own meals like peanut butter and jelly sandwiches. Also she asked what about being blind made it that she required assistance getting into and out of the bathtub. The Appellant asserts the worker questioned her about how she lost her sight and was put off when informed she preferred not to discuss it and told to go read the case files. The Appellant asserted the worker told her she did not have time to read the files, raised her voice at the comprehensive assessment and was unprofessional. The Appellant also testified she requires assistance reading her mail and getting into the car to go to the store. She accesses transportation services for church. The frequency she attends church was disputed at hearing, however, is not material to the disposition of this case, thus the issue will not be specifically discussed in the Decision and Order.

The Department's worker testified she conducted the in home assessment by asking the Appellant about each task, whether the Appellant required physical assistance with it and if so, why. She learned the Appellant is able to bath and dress herself and do


some light housework. She also is able to get cold cereal and make sandwiches. The worker further testified she consulted the provider logs for ██████████ and saw that no assistance for bathing, dressing or transferring was provided during that time. The prior assessment had compensated the Appellant for assistance with those tasks. The worker learned the Appellant walks inside of her home without assistance, does not need help transferring inside of her home.

This ALJ considered all of the evidence of record, including the documents submitted by the Department and a letter from the Appellant's advocate bringing forth complaints about how the Department's worker allegedly conducted herself during the home call. This ALJ does not have jurisdiction over the conduct of any Department worker, those concerns must be addressed through internal channels within the Department of Human Services.

Regarding the evidence material to the disposition of the case, this ALJ finds the Department's worker made reductions to the payment assistance that are in accord with Department policy, thus must be sustained. Specifically, this ALJ finds the reasons for the reductions are based upon policy and sound evidence regarding what actual assistance the Appellant requires. There was no evidence the Appellant's chore provider assists with bathing, dressing or transferring, thus the cuts in payment for those areas is sustained. The assertion from the Appellant she cannot button her clothing if the buttons are in the back of the garment does not persuade this ALJ she requires assistance with dressing. Her provider said she does not assist her with it. Additionally, it is not necessary to wear clothes with buttons in the back. This program is designed to help people maintain independence while residing in the community. People are still expected to make accommodations, such as wearing clothing they are able to put on without assistance if that enables them to remain more independent. The Appellant did not persuade this ALJ the worker's cuts were not supported by the facts and policy. The time allotted for the tasks she does require assistance with is sufficient and supported by policy. The Appellant did not meet her burden of proof in this case. Her testimony failed to establish she was allotted insufficient time or that tasks that had been eliminated were done so improperly.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated the Appellant's HHS payments in the areas of bathing, dressing and transferring. The reduction in payment from ██████████ to ██████████ is sustained.


Docket No. 2009-25462 HHS
Decision and Order

IT IS THEREFORE ORDERED that:

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

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 8/26/2009

***** 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.