

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

P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████

Appellant

\_\_\_\_\_ /

Docket No. 2009-37177 HHS  
Case 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 ██████████. ██████████ appeared on his own behalf. ██████████, home health services provider, appeared as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department (DHS). ██████████, Adult Services Worker, and ██████████, appeared as witnesses for the Department.

**ISSUE**

Did the Department properly reduce Home Help Services payments to the Appellant?

**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 ██████████ with seizure disorder, closed head injury, depression, hypertension, broken right hand and broken right shoulder. (Exhibit 1, page 11).
2. Appellant is a Medicaid beneficiary.
3. Appellant moved to a rooming house in ██████████. (Exhibit 1 pg. 10).
4. Three other adults also reside in the rooming house.
5. The rooming house has common areas for the use of all residents.

6. On [REDACTED], a DHS Adult Services Worker made a visit to Appellant's home to conduct a Home Help Services assessment. Appellant and his provider were present in the home. (Exhibit 1, page 10).
7. As a result of the information gathered from the Appellant at the assessment and the information from the Appellant's physician, the worker decreased the HHS hours authorized for housework for the Appellant. (Exhibit 1, page 5).
8. DHS policy requires tasks of housework, laundry, meal preparation and shopping to be prorated by the number of people living in the home. The Adult Services Worker only applied the proration policy to the authorization of housework because the other residents of the rooming house do not contribute with Appellant toward laundry, meal preparation and shopping.
9. On [REDACTED], the Department sent an Advance Negative Action Notice notifying Appellant that his Home Help Services payments would be reduced to [REDACTED] per month, effective to [REDACTED]. (Exhibit 1, pages 4-7).
10. On [REDACTED], the State Office of Administrative Hearings and Rules received Appellant's Request for Hearing. (Exhibit 1, page 3).

### **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 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.

Adult Services Manual (ASM 363, 9-1-08), pages 2-5 of 24 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 client in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client'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 department 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 client'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 client and provider, observation of the client'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

These are maximums; as always, if the client 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 client 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 client's maintenance and functioning in the living environment.
- The availability or ability of a responsible relative or legal dependent of the client to perform the tasks the client 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 client.
- 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 client 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 client.
- HHS may be authorized when the client is receiving other home care services if the services are not duplicative (same service for same time period).

*Adult Services Manual (ASM) 9-1-2008, Pages 2-5 of 24*

██████████  
**Docket No. 2009-37177 HHS**  
**Decision and Order**

On ██████████, the Adult Services Worker (worker) completed an HHS comprehensive assessment for redetermination in accordance with Department policy. The worker testified that using the functional scale, based on her observations and the information she was provided by the Appellant at the time of the assessment, she decreased the HHS hours authorized for housework. The worker testified that this was because the rooming house has common areas for the use of all residents. The worker testified she did not apply proration to the other IADL activities because the other residents in the home do not contribute with the appellant towards shopping, meal preparation and laundry. The worker testified she applied proration to housework in accordance with policy.

The Appellant testified that he disagreed with the proration of the housework hours because he believes there has been no decrease in the things his provider does for him. For example, Appellant stated there has been no decrease in cleaning up after services provided for him in common areas like the kitchen and bathroom. The Appellant also noted that he does not utilize the other common areas of the rooming house such as the living room and dining room.

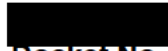
It is important to note, and for the Appellant to understand, that the Department is bound by policy governing HHS authorization under which proration must be applied to any IADL, such as housework, when others in the home would also benefit from the work of the HHS provider. When the provider performs housekeeping activities in any common area, including the kitchen and bathroom, all residents of the household potentially benefit from this service. Accordingly, the authorized hours for this activity must be prorated under Department policy.

In the present case, Department policy allows for a maximum of ██████████ for light housekeeping each month. Appellant lives in the rooming house with ██████████ adults and was authorized for ██████████ of housekeeping each month. (Exhibit 1 pg. 9). The department only reduced the maximum housekeeping hours by about one third, instead of one fourth even though there are ██████████ living in the home. This would adequately adjust the allowed hours for housekeeping services provided in Appellant's own living area, which is separate from the common areas of the rooming house.

The Appellant did not meet his burden of proving, by a preponderance of evidence, that the Department applied policy improperly in decreasing the authorized HHS hours for housekeeping. The Department provided sufficient evidence that it properly prorated the allowed housekeeping hours based on the household composition.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly reduced the Appellant's HHS payments in the area of housekeeping.

  
Docket No. 2009-37177 HHS  
Decision and Order

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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Colleen Lack  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc:



Date Mailed: 12/17/2009

**\*\*\* NOTICE \*\*\***

The State Office of Administrative Hearings and Rules March 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 March 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.