

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. 2009-5079 HHS
Case No. ██████████
Load No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████. ██████████ was represented by his provider, ██████████. His two siblings, ██████████ and ██████████ were present. His mother, ██████████, who has a companion case, was also present. ██████████, represented the Department of Human Services (DHS or Department). ██████████, appeared as a witness on behalf of the Department.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services payments?

FINDINGS OF FACT

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

1. The Appellant is a ██████ year old Medicaid beneficiary with an ongoing Home Help Services case.
2. The Appellant resides in his own home with his elderly mother and brother.
3. The Appellant is disabled and collecting RSDI. He suffers cerebral palsey and seizures.

4. The Appellant's case was scheduled for a re-determination in [REDACTED]
[REDACTED]
5. Following a home call and comprehensive assessment, he was notified he would receive a reduction in payment assistance for Home Help Services. He was notified he would no longer receive payment assistance for the task for meal preparation. He was approved for payment for the tasks of medication assistance, housework, laundry and shopping.
6. The Appellant requested a formal, administrative hearing [REDACTED]
[REDACTED]

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.

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 three (3) level or greater.

Time and Task

The worker will allocate time for each task assessed a rank of three (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.

The Department witness testified. She stated she removed meal preparation based upon what she was told by ██████████ at the comprehensive assessment in ██████████. She said she had been told by him that he knows how to make lasagna and marinated chicken. She determined he was able to prepare the meals for himself and his mother, who has a companion case. She removed payment for this task. She still allowed for assistance with medication.

The Appellant's witness testified. She stated ██████████ mostly requires supervision. She stated he is not able to make dinners but could cook something simple like breakfast or prepare a snack. She said he is capable of physically performing light housework. He does do his own laundry. ██████████ is unable to drive or make appropriate decisions about what to buy at the store, thus he must have his shopping done for him. She said she has to put his medication out for him and he can take it. He could not ascertain which to take without assistance as he is unable to read. She stated he has the mind of a young child and is prone to exaggeration.

This ALJ considered the credible evidence of record. The Department's removal of payment assistance for some meal preparation cannot be sustained. This appears to be a task that [REDACTED] does require some assistance with, thus restoring the rank of 3 is appropriate. The testimony that he is capable of making simple meals such as snacks and breakfast is found credible. The testimony that he could not read or prepare a dinner is found credible by this ALJ, thus this reduction will not be sustained. However, the testimony at hearing further establishes the ranks for other tasks are too high and payment for them should be removed. The Home Help Services program does not pay for guidance, reminding or supervision. The testimony establishes this is predominantly what [REDACTED] requires. Payment for dinner preparation, prorated by 3 due to the number of persons in the home is appropriate. A rank of 3 for shopping and errands assistance, again prorated by 3, is also appropriate for [REDACTED]. Assistance with medication is also appropriate, at a rank of 3. These are the only tasks which [REDACTED] appears to require assistance with at a level that is compensable by the Department.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly reduced the Appellant's Home Help Services.

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED. The Department is hereby ordered to make the case adjustments as specified in this Decision and Order.

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

cc:

[REDACTED]

Date Mailed: 3/17/2009

***** 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.



