

**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. 2009-10974 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.*, following the Appellant's request for an in-person hearing.

After due notice, an in-person hearing was held in ██████████ on ██████████. ██████████ (Appellant) appeared and testified on his own behalf.

██████████, represented the Department of Community Health (Department). Also appearing as a witness for the Department was ██████████.

**ISSUE**

Did the Department properly determine the Appellant's Adult Home Help Services award?

**FINDINGS OF FACT**

Based upon the competent, material and substantial evidence presented, I find, as material fact:

1. Appellant is a Medicaid beneficiary. He suffers from nerve damage throughout his body due to a spinal cord injury. (*Exhibit 1, page 15*)
2. On ██████████, ██████████ conducted a reassessment of the Appellant's Adult Home Help Service needs. The assessment revealed that the Appellant required assistance with housework and laundry. Both of these tasks were increased to the maximum allowed by policy. However, the assessment also revealed that the Appellant was capable of preparing his own meals, and, as a result, this task was eliminated from the award.

3. On [REDACTED], the Appellant was issued a Negative Action Notice informing him of the overall reduction in total care cost, from [REDACTED] per month, to [REDACTED] per month.
4. The Appellant is capable of hunting and fishing unassisted, although he utilizes special equipment to assist him in using his crossbow.
5. On [REDACTED], the Appellant filed his request for hearing with the State Office of Administrative Hearings and Rules for the Department of Community Health.
6. The hearing was originally scheduled to commence at [REDACTED] on [REDACTED]. However, on [REDACTED], the Appellant requested an in-person hearing. Therefore, on [REDACTED], a Notice of Rescheduled In-Person Hearing was issued, scheduling the hearing to commence at [REDACTED] on [REDACTED], in [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 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 (DHS-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 re-determination.
- 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. When hours exceed the RTS rationale must be provided.

#### IADL Maximum Allowable Hours

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

The limits are as follows:

- Five hours/month for shopping.
- Six hours/month for light housework.
- Seven 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. If there is a need for expanded hours, a request should be submitted to:

MDCH

Attn: Long Term Care, Systems Development Section  
Capitol Commons, 6th Floor, Lansing, MI 48909

#### **Necessity For Service**

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

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client 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.

**Exception:** DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional 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 client and/or medical professional. If the case is closed and reopened within 90 days with no changes in the client's condition, a new DHS-54A is not necessary.

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

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DEPARTMENT OF HUMAN SERVICES  
ASB 2008-002  
9-1-2008**

The Appellant testified the Adult Services Worker incorrectly assumes he can use his arms and hands to prepare meals. He claims that nerve damage prevents him from doing so, and that sitting on a stool while preparing meals will not alleviate his pain.

However, the Appellant acknowledges being capable of hunting and fishing, asserting this is the only way he can gather food to eat on a regular basis. The Appellant also complained he has no choice but to take medication to control his pain, and to grant his chore providers' requests for breaks from care.

The Appellant otherwise provided no credible evidence challenging the adult services worker's contention he is capable of preparing his own meals. He also did not challenge the increase in hours attributable to the tasks of housework and laundry.

**DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, I decide that the Department properly determined the Appellant's Home Help Service award based on the [REDACTED] re-assessment.

[REDACTED]  
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Decision and Order

**IT IS THEREFORE ORDERED** that:

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

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Stephen B. Goldstein  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 4/1/2009

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

The State Office of Administrative Hearings and Rules for the Department of Community Health 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 for the Department of Community Health 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.

[REDACTED]

