

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. 2009-15344 HHS
Case 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 ██████████. ██████████, the Appellant's mother and legal guardian appeared on behalf of the Appellant. ██████████, represented the Department of Human Services (DHS or Department). ██████████ appeared as a witness on behalf of the Department.

ISSUE

Did the Department properly authorize Appellant's 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. The Appellant is a ██████████ woman who is moderately mentally retarded, according to her own doctor. She resides with her mother.
2. The Appellant does not have physical anomalies preventing her from performing her own ADL's or IADL's, however, has limited judgment as a result of her condition.
3. The Appellant is a Medicaid beneficiary who applied for assistance from the Adult Home Help Services program.
4. The Department's worker conducted an in-home comprehensive assessment on ██████████.

5. As a result of the comprehensive assessment, the worker approved payment assistance for the tasks for bathing, grooming, dressing, eating, medication, housework, laundry, shopping and meal preparation. A Notice was sent to the Appellant informing her of the approval in the amount of [REDACTED] per month.
6. The Appellant's mother and guardian disagrees with the services approval amount, thus requested a formal, administrative hearing on [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.** (emphasis added)

Department policy addresses the need for supervision, monitoring or guiding below:

Services Not Covered By Home Help Services

Do **not** authorize HHS 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 - Medical transportation policy and procedures are in Services Manual Item 211.
- Money management, e.g., power of attorney, representative payee;
- Medical services;
- Home delivered meals;
- Adult day care

The Department witness testified that she performed the comprehensive assessment in accordance with Department policy. The Department witness further testified that the payment for shared household responsibilities such as cleaning and housework were pro-

rated to reflect the fact that the Appellant resides with her mother and the Department cannot pay for tasks that would benefit other, non-participating members of the same household. She stated no payment could be made for reminding, guiding or supervising.

The Appellant's mother asserts the time allowed for each of the approved tasks is insufficient to compensate for how long it actually takes. The worker testified the time was approved in accordance with the reasonable time and task schedule published by the Department.

Bathing: The DHS worker stated payment for bathing was approved based upon the information from the Appellant's mother the Appellant could bath herself if the water was prepared for her at the appropriate temperature. She is ranked a 3 for bathing.

Grooming: The Appellant requires assistance with her hair and reminders to brush her teeth. The program cannot compensate a care provider for reminding, guidance or supervision, only the hands on physical assistance, thus the rank of 3 is found appropriate.

Dressing: The Department evidence indicates the Appellant makes inappropriate choices thus requires some assistance. This ALJ finds that assistance making appropriate clothing choices falls into the category of supervision, however, will not disturb the worker's findings that some assistance is required. The rank of 3 is generous and should not be higher according to the evidence in the record.

Eating: The Appellant reportedly requires assistance in cutting up her food into appropriately sized pieces. Again, this ALJ doubts she is physically incapable of cutting her food, or requires 10 minutes each day for this task, however, will not disturb the worker's determination in this regard. The ranks certainly should not be increased based upon the evidence in the record. There is no evidence of a physical impediment to cutting food appropriately with supervision and/or guidance.

Housework: The payment allotted for housework was approved based upon a rank of 3 and pro-rated based upon the fact that the Appellant lives in the same house as her mother. This is in accord with Department Policy. There was no evidence the Department's determination with respect to housework was incorrect.

Shopping and errands: The payment authorized for shopping and errands was based upon a rank of 3 and pro-rated for the same reason as the payments for meal preparation, laundry and housework. It is the correct determination given the evidence of record.

Meal preparation: The payment authorized for meal preparation was based upon a rank of 3 and pro-rated for the same reason as the payments for shopping and errands, laundry and housework. It is the correct determination given the evidence of record.

Laundry: The payment authorized for laundry was based upon a rank of 3 and pro-rated for the same reason as the payments for shopping and errands, meal preparation, and housework. It is the correct determination given the evidence of record.

Medication: Payment for assistance with medication was ranked a 4 as a result of the comprehensive assessment performed by the worker. The Appellant's mother gives her daughter medication for high blood pressure. There was no evidence of a complicated or time consuming medication program.

After careful consideration of the evidence in the record, this ALJ finds the Department's evidence of the reason for the case determinations are all supported by competent, credible evidence of the Appellant's actual abilities. Each task was carefully reviewed and relevant evidence of the Appellant's physical abilities considered by the worker, as evidenced by the specific notes taken regarding each task assessed. The fact that housework, laundry, shopping and errands and meal preparation time had to be pro-rated is mandated by the policy. Finally, the supervision, reminding and guiding of the Appellant is not something the Department can compensate her provider for.

The Department's Home Help Services program is designed to provide physical assistance to those who have physical limitations interfering with their ability to perform ADL's and IADL's. In this case, the evidence in the record is insufficient to establish the Department authorized an inadequate amount of time for Appellant's ADLs or IADLs. In short, the Appellant's guardian failed to establish the Department erred.

DECISION AND ORDER

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

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:

[REDACTED]

Date Mailed: 6/2/2009

***** 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.