

**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. 2009-16672 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 ██████████. ██████████ represented himself. His chore provider, ██████████ was present as a witness of his behalf. ██████████ ██████████, represented the Department of Community Health (Department). ██████████, appeared as a witness for the Department. ██████████ was also present as a Department witness.

ISSUE

Did the Department properly reduce payment for the Appellant's Home Help Services (HHS)?

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 Medicaid beneficiary who has been receiving Home Help Services.
2. The Appellant's medical diagnoses include coronary artery disease, high blood pressure and emphysema. He reports having bi-lateral leg surgery. He is ██████ years old.
3. The Appellant's case was due for a re-determination in ██████████. The Department's Adult Services Worker made a home call on ██████████, for the purpose of interviewing the Appellant and conducting the comprehensive assessment.

4. The Appellant's chore provider was present for the home call.
5. As a result of the information obtained at the home call, the Worker determined the Appellant was able to bath without assistance. Additionally, he was participating in shopping and errands by driving himself. She eliminated payment assistance for bathing.
6. The Appellant's monthly HHS payment assistance was reduced from [REDACTED] per month to [REDACTED]. The worker sent Notice of the reduction on [REDACTED].
7. The Appellant appealed the reduction 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.

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.

The Adult Services Worker testified that a comprehensive Home Help Services assessment was performed in [REDACTED]. The Adult Services Worker stated that she discussed the tasks with the chore provider, who indicated she did not assist the Appellant with bathing. She further indicated she does not drive. She based her assessment in part on the reporting from the provider.

The Appellant testified he did not think his chore grant should be reduced since he moved

into a larger apartment and his medical needs have not diminished. He said he requires assistance getting into and out of the bathtub. He said he does have help with shopping and errands despite the fact his provider does not drive. He stated he drives and she carries the bags.

This Administrative Law Judge (ALJ) reviewed the evidence in the record. The Department's reductions at the time of the assessment were based upon the assessment of the worker. The assessment included an interview of the provider herself. The worker's determination is based, at least in part, on the direct report from the chore provider herself. This is a reasonable means of determining what assistance is needed and actually being rendered. There is a reason the provider told the worker she does not assist with bathing. It is most likely because she does not actually assist with bathing. The worker's determination is found to be reasonable in light of the information she obtained at the assessment.

This ALJ considered the testimony from the Appellant. It was not persuasive and failed to establish grounds for reversal of the Department's action. The actions of the Department were based upon a preponderance of credible, relevant evidence.

DECISION AND ORDER

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

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: 6/12/2009


Docket No. 2009-16672 HHS
Decision and Order

***** 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.