

**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. 2009-20113 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 ██████████. ██████████ (Appellant) appeared and testified on her own behalf. ██████████, represented the Department. ██████████ testified as a witness for the Department.

**ISSUE**

Did the Department properly determine that Appellant was no longer eligible for 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. Appellant is a Medicaid recipient who was receiving home help services.
2. Appellant was diagnosed with hypertension, peripheral vascular disease, and a mild cognitive impairment. (Department Exhibit 1, p. 9)
3. Appellant was living with her ██████████ and ██████████ at all times relevant to this matter. (Department Exhibit 1, p. 7)
4. Appellant submitted completed Medical Needs forms from a Medicaid enrolled provider/medical doctor, certifying that: Appellant needs assistance

- with taking medications, shopping, laundry, and housework; Appellant can work at her usual occupation and any other job with limitations; and her limitations include limited cognitive skills-“needs supervised work environment” and “No strenuous physical labor.” (Department Exhibit 1, pp. 9 & 10)
5. Appellant had been receiving home help services for assistance with housework, laundry, shopping for food/meds, and meal preparation. (Department Exhibit 1, p. 12)
  6. On ██████████, ██████████, the Adult Services Worker, went to Appellant’s home to conduct a home help services reassessment of Appellant’s home help services eligibility. (Department Exhibit 1, p. 7)
  7. During the home help services reassessment, ██████████ noted that: Appellant had left-sided weakness from a stroke that occurred three years ago; during the assessment, there was no evidence of side effects from the stroke; Appellant was able to walk and transfer without assistance; and Appellant was driving and had taken one of her children to a medical appointment on the day of the assessment. (Department Exhibit 1, p. 7)
  8. After the reassessment, ██████████ determined that Appellant no longer needed home help services.
  9. On ██████████ sent Appellant written notice that she would no longer be eligible for home help services. (Department Exhibit 1, p. 4)
  10. On ██████████, the State Office of Administrative Hearings and Rules received Appellant’s hearing request, protesting the termination of home help services.

### **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 health professional and may be provided by individuals or by private or public agencies.

### **Necessity For Service**

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

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

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

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

### **Services not Covered by Home Help Services**

Do **not** authorize HHS payment 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 - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;
- Medical services;

*ASM 363; pages 9 or 26; 10 of 26 and 15 of 26; INDEPENDENT LIVING SERVICES PROGRAM PROCEDURES ASB 2004-006 10-1-2004*

### **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
- 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 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
- 6 hours/month for light housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

#### ***ASM 363 pages 9 and 4 of 26; INDEPENDENT LIVING SERVICES PROGRAM PROCEDURES ASB 2004-006 10-1-2004***

Appellant is protesting the Department's determination that she is no longer eligible for home help services. Appellant testified that she has back pain, left-sided pain and numbness, and she is unable to stand long due to back problems. However, the Medical Needs forms completed by Appellant's medical doctor do not indicate that Appellant has back problems. In addition, Appellant failed to provide any medical documentation to establish that she has back problems which affect her ability to function on a daily basis.

The home help services policy states clearly that the Adult Services Worker is responsible for determining the necessity and level of need for services. The Adult Services Worker did a home help assessment in accordance with Department policy and determined that Appellant was independent in her ability to do all of her activities of

daily living (ADLS) and instrumental activities of daily living (IADLs). During Appellant's home help services reassessment the worker noted that: there was no evidence of side effects from the stroke; Appellant was able to walk and transfer without assistance; and Appellant was driving and had taken one of her children to a medical appointment on the day of the assessment. The worker testified credibly at the hearing that Appellant was able to transfer from a sitting to standing position; she was able to walk without assistance to get her medications; and there were no signs of left-sided weakness from the previous stroke or back problems. Further, Appellant's medical doctor completed Medical Needs forms, certifying that Appellant can work any job with limitations. The only limitations noted were limited cognitive skills and an inability to strenuous physical labor. Therefore, it appears that Appellant is **physically** capable of doing sedentary or light work outside of her home.

In this case, Appellant failed to provide the necessary evidence to refute the Adult Services worker's home help services assessment. Accordingly, the Department's denial of Appellant's continued eligibility for home help services must be upheld.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Appellant was no longer eligible for home help services.

**IT IS THEREFORE ORDERED** that:

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


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Marya A. Nelson-Davis  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc:



Date Mailed: 6/24/2009

  
Docket No. 2009-20113  
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.