

**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. 2009-24859 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ appeared on her own behalf. ██████████, represented the Department (DHS). ██████████, and ██████████, appeared as witnesses for the Department.

ISSUE

Did the Department perform a proper comprehensive assessment?

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 ██████████ woman with congestive heart failure. (Exhibit 1, pages 5, 10, 15).
2. Appellant is a Medicaid beneficiary.
3. Appellant is married.
4. Appellant's daughter is her chore provider.
5. The Appellant lives with two other residents in the home.
6. On ██████████, a DHS Adult Services Worker made a visit to Appellant's home to conduct a Home Help Services assessment. Appellant was present in her home. (Exhibit 1, page 9).

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7. As a result of the information gathered from the Appellant at the assessment and the information from the Appellant's physician, the worker authorized HHS for housework, laundry, meal preparation and shopping for the Appellant. (Exhibit 1, page 8).
8. DHS policy requires tasks of housework, laundry, meal preparation and shopping to be prorated by the number of people living in the home. The Adult Services Worker applied the proration policy to Appellant's authorization of housework, laundry, meal preparation and shopping.
9. On [REDACTED], the Department sent a Services Approval Notice notifying Appellant that her Home Help Services payments would be approved for [REDACTED] per month, retroactively effective to [REDACTED]. (Exhibit 1, pages 7-9).
10. On [REDACTED], the State Office of Administrative Hearings and Rules received Appellant's Request for Hearing. (Exhibit 1, pages 4-6).

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, 9-1-08), pages 2-5 of 24 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 March 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. (Underline added).

The Adult Services Worker (worker) testified that an HHS comprehensive assessment was performed in accordance to Department policy. The worker further testified that using the functional scale, based on her observations and the information she was provided by the Appellant at the time of the assessment, she authorized HHS for housework, laundry, meal preparation and shopping. (Exhibit 1, pages 11-12). The worker stated she applied proration in accordance with policy.

The Appellant testified that she disagreed with the proration of her authorization because she believed that her needs were separate from the needs of her roommate, who also receives payments for assistance. The Appellant said she thought she should get more money for HHS. It is important to note and for the Appellant to understand that HHS is bound by Department policy and must apply proration and hourly caps on housework, laundry, meal preparation and shopping.

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The Appellant testified she needs transportation to the doctor and her daughter/chore provider should get paid to drive her to medical appointments, including upcoming doctor visits to [REDACTED]. As the Department representative pointed out during the hearing, transportation is not a covered service under the HHS program and her daughter/chore provider cannot be paid from HHS funds for driving her to medical appointments.

The Appellant has the burden of proving, by a preponderance of evidence, that the Department did not perform a proper comprehensive assessment. The Appellant did not meet that burden. In fact, this Administrative Law Judge expressed her doubt on the Record whether the Appellant even met eligibility criteria because she remains legally married with no evidence that her spouse is unavailable. Because the issue is whether there was a proper assessment and not eligibility, this Administrative Law Judge will not address the available spouse issue.

The Appellant did not provide a preponderance of evidence that the Department performed an improper comprehensive assessment or applied policy improperly. The Department provided sufficient evidence that it performed a proper comprehensive assessment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department performed a proper comprehensive assessment.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 9/15/2009

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***** NOTICE *****

The State Office of Administrative Hearings and Rules March 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 March 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.