

**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. 2009-29582 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.

██████████ appeared on her own behalf. ██████████ and ██████████, appeared as witnesses for the Appellant.

██████████, represented the Department (DHS). ██████████, appeared as a witness for the Department.

ISSUE

Did the Department perform a proper Home Help Services (HHS) comprehensive assessment and authorization denial?

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.
2. Appellant's medical documentation indicates she has major depressive disorder, obesity, and diabetes mellitus. (Exhibit 1, page 9).
3. Appellant is a Medicaid beneficiary.
4. Appellant lives with her son.
5. Appellant's daughter is her potential chore provider.
6. The Appellant owns a car and is able to drive.

7. On ██████████, a DHS Adult Services Worker made a visit to Appellant's home to conduct a HHS assessment. Appellant and her daughter were present in the home. (Exhibit 1, page 8).
8. As a result of the information gathered from the Appellant at the assessment and the information from the Appellant's physician, the worker denied authorization for HHS for the Appellant. (Exhibit 1, pages 4-5).
9. On ██████████, the Department sent an Adequate Negative Action Notice that her Home Help Services would not be authorized. The reason given was: "...you appear capable of doing ADLs and IDLs independently." (Exhibit 1, pages 4-8).
10. On ██████████, 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, address 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 April 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.

The evidence of record demonstrates the Adult Services Worker (worker) properly performed a HHS comprehensive assessment in accordance to Department policy. (Exhibit 1, pages 8-23). The worker's supervisor testified that using the functional scale, based on observations and the information the worker was provided by the Appellant at the time of the assessment; the worker denied authorizing HHS because Appellant was able to perform her activities of daily living independently.

The Appellant testified that she disagreed with the denial of her authorization because she has needs related to a neurological condition and recent mini-strokes (TIAs). The Appellant admitted she did not have and did not provide medical documentation of a neurological condition at the time of assessment and denial of authorization. The Appellant stated she did not have medical documentation with her at the time of hearing.

The Appellant said she needed transportation to get to the doctor. The Appellant testified she drives her car short distances; including driving to the store to do shopping. It is important to note that this Administrative Law Judge is limited to determining whether the Department's actions were in accordance with Medicaid policy based on the information the Department was provided and possessed at that time of their determination. *See also client responsibility for obtaining medical certification of need, ASM 363, 9-1-08, p 9 of 24.*

The Appellant's witness testified that some of Appellant's inability to provide care for herself was due to her depression. The Appellant's witness said the Appellant needed supervision with an inability to care for herself due to depression and related mental health issues.

As the Department representative pointed out during the hearing, medical transportation, supervision, and services related to mental health conditions are not covered services under the HHS program. *See ASM 363, 9-1-08 version.*

The Appellant has the burden of proving, by a preponderance of evidence, that the Department did not perform a proper comprehensive assessment and authorization denial.

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The Appellant did not meet that burden. 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:



Date Mailed: 10/8/2009

***** 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.