

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████

Appellant

\_\_\_\_\_ /

Docket No. 2009-6486 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 ██████████. ██████████, Appellant's legal guardian/mother personally appeared and testified on Appellant's behalf. ██████████ appeared as a witness for Appellant. ██████████, represented the Department. ██████████, appeared and testified as a witness for the Department.

**ISSUE**

Did the Department properly determine Appellant's eligibility for 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 ██████ year-old Medicaid recipient who applied for HHS.
2. At all times relevant to this matter, Appellant was living with both parents and working.
3. Appellant is mentally retarded and has scoliosis; and Appellant receives "peg tube care" or has a feeding tube that is used for hydration approximately once a week. (Exhibit 1, pp. 2 &14)

4. On [REDACTED], [REDACTED], the [REDACTED], went to Appellant's home to assess his eligibility for HHS.
5. It was determined that Appellant needs assistance with bathing, grooming, dressing, toileting, transferring, continence, eating, mobility, medication, housework, laundry, shopping for food/meds, and meal preparation. (Exhibit 1, p. 12)
6. During the home call visit, the Adult Services Worker noted the following: Appellant has a mental age of 3-5 and is working 2 hours a day, 4 days a week; Appellant is on a feeding tube for hydration and on a regular diet; Appellant is allergic to latex and has balance problems; Appellant is mobile with a walker in the house, and he has to use a wheelchair for long distances; Appellant was in a nursing home for 3-4 months, then returned home [REDACTED] Appellant cannot tell hot from cold water and has to be completely showered; Appellant is unable to shave or brush his own teeth; Appellant is able to "urine on his own"; Appellant is being trained over again to go to the bathroom; Appellant is wearing diapers; Appellant needs help with wiping and cannot put on his socks; Appellant needs help with his shirt and needs his clothes set out with help; Appellant needs his mother to push him in the wheelchair and needs his food cut up; and Appellant is unable to shop, cook, do laundry or housework for himself. (Exhibit 1, p. 10)
7. During the HHS assessment, the Adult Services Worker determined that bathing, grooming, continence, medication, housework, laundry, shopping for food/meds, and meal preparation should be ranked at level 5, the highest ranking on the Independent Living Services Five-Point Functional Scale; dressing should be ranked at level 4; and toileting, transferring, eating, mobility should be ranked at level 3. (Department Exhibit 1, p. 12)
8. All of the Instrumental Activities of Daily Living (IADLs) that Appellant was eligible to receive assistance with were prorated by 2. (Exhibit 1, p. 9)
9. On [REDACTED] the Adult Services Worker sent Appellant written notice that he was determined to be eligible for a [REDACTED] monthly HHS payment. (Exhibit 1, p. 9)
10. On [REDACTED] the State Office of Administrative Hearings and Rules received Appellant's hearing request, protesting the HHS eligibility determination.

## **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 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 re-determination.
- 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
- 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

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PROCEDURES  
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ASB 2004-006  
10-1-2004*

**The Department can authorize HHS only for the benefit of the customer, not for others in the home. If others are living in the home, the department must prorate the IADLs by at least 1/2, or more if appropriate.**

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10-1-2004*

### **REVIEWS**

ILS cases must be reviewed every six months. A face-to-face contact is required with the client, in the home. If applicable, the interview must also include the caregiver.

## Six-Month Review

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.
- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- Follow-up collateral contacts with significant others to assess their role in the case plan.
- Review of client satisfaction with the delivery of planned services.

## Documentation

Case documentation for all reviews should include:

- Update the "Disposition" module in ASCAP.
- Generate the CIMS Services Transaction (DHS-5S) from **forms** in **ASCAP**.
- Review of **all** ASCAP modules **and** update information as needed.
- Enter a brief statement of the nature of the contact and who was present in **Contact Details** module of ASCAP.
- Record expanded details of the contact in **General Narrative**, by clicking on **Add to & Go to Narrative** button in **Contacts** module.
- Record summary of progress in service plan by clicking on **Insert New Progress Statement in General Narrative** button, found in any of the **Service Plan** tabs

## Annual Redetermination

Procedures and case documentation for the annual review are the same as the six-month review, with the following additions:

### Requirements

- A reevaluation of the client's Medicaid eligibility, if home help services are being paid.
- A new medical needs (DHS-54A) certification, if home help services are being paid.
- The medical needs form for SSI recipients will **only** be required at the initial opening and is no longer required in the redetermination process. All other Medicaid recipients will

need to have a DHS-54A completed at the initial opening and then annually thereafter.

- A face-to-face meeting with the care provider, if applicable. This meeting may take place in the office, if appropriate.

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ASB 2007-003*

## **REVIEW**

Update the comprehensive assessment and the service plan every six months. Review the adequacy of the service plan to assure it meets the client's current needs.

Review eligibility for independent living services every 12 months, or sooner if the client's condition or circumstances warrant.

### **The annual review requires:**

- MA eligibility verification, if relevant.
- Comprehensive assessment.
- Service plan.
- Renewal of the medical needs (DHS-54A).

*INDEPENDENT LIVING SERVICES PROGRAM  
REQUIREMENTS  
ADULT SERVICES MANUAL; ASM 362 page 3 of 4  
DEPARTMENT OF HUMAN SERVICES  
ASB 2007-003  
6-1-2007*

In this case, Appellant's legal guardian/mother requested a hearing, protesting the Department's determination of Appellant's monthly HHS payment. Appellant's mother believes that her son is entitled to a higher monthly HHS payment because of the amount of time that she spends assisting Appellant with all of his ADLs. Appellant's mother stated that her husband is unable to assist her with Appellant because he has advanced Parkinson's disease

On ██████████ the Adult Services Worker completed a comprehensive HHS assessment of Appellant. It was determined that Appellant needs assistance with bathing, grooming, dressing, toileting, transferring, continence, eating, mobility, medication, housework, laundry, shopping for food/meds, and meal preparation. The Adult Services Worker determined that bathing, grooming, continence, medication,

housework, laundry, shopping for food/meds, and meal preparation should be ranked at level 5, the highest ranking on the Independent Living Services Five-Point Functional Scale; dressing should be ranked at level 4; and toileting, transferring, eating, mobility should be ranked at level 3. The Adult Services Worker, ██████████ testified that: she determined Appellant would be eligible for a payment for transferring and mobility because he needs assistance getting to work; Appellant is able to dress himself with assistance, but needs help with his shoes and socks; Appellant can go to the bathroom on his own, but needs help with wiping; Appellant needs help cutting up his food and uses a feeding tube for hydration; and Appellant uses a wheelchair only for long distances. During the home call visit, the Adult Services Worker noted also that Appellant is unable to shop, cook, do laundry or housework for himself.

The Department established that the Adult Services Worker conducted her HHS assessment of Appellant in accordance with Department policy. The Adult Services Worker allocated the time and ranking for all of the IADLs and ADL that Appellant needs assistance with based on her assessment of Appellant in ██████████. The Department established that the Adult Services Worker followed policy and used the reasonable time schedule as a guide in determining the time that would be allocated for each task given a ranking of 3 or higher. The IADLs of housework, laundry, and shopping and meal preparation were prorated by only 2, instead of Appellant's actual household size of 3. The Department can authorize HHS only for the benefit of the customer, not for others in the home. If others are living in the home, the department must prorate the IADLs, which include housework, laundry, meal preparation and shopping for food/meds by at least 1/2, or more if appropriate.

The HHS policy states clearly that the Adult Services Worker is responsible for determining the necessity and level of need for HHS. Although the client's physician must certify that the client's need for services is related to an existing medical condition, the physician does not prescribe or authorize personal care services. Appellant's representative failed to provide the necessary evidence to refute the Department's HHS eligibility determination. Accordingly, the Department's determination of Appellant's HHS eligibility is 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 Appellant's Home Help Services eligibility.

**IT IS THEREFORE ORDERED** that:

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

[REDACTED]  
Docket No. 2009-6486  
Decision and Order

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

cc:

[REDACTED]

Date Mailed: 3/13/2009

**\*\*\* 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.