

**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. 2010-2226 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 ██████████. The Appellant appeared without representation. She had no witnesses. ██████████ appeals review officer, represented the Department. Her witnesses were ██████████ ASW supervisor and ██████████ social services specialist.

ISSUE

Did the Department properly deny Home Help Services (HHS) for the Appellant?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. At the time of hearing the Appellant is a ██████████ disabled, Medicaid and SSI beneficiary.
2. The Appellant is afflicted with HTN, asthma, obesity and knee pain. (Department's Exhibit A, pp. 6, 7a and 8)
3. On ██████████ ASW ██████████ sent the Appellant an advance negative action notice informing her that her services were terminated based on her in-office² assessment on ██████████. (Department's Exhibit A, pp. 2, 6, 7)

¹ In the exhibit the worker reports a DHS 1212A – adequate action notice sent on ██████████. See Department's Exhibit A p, 7

² The Department amended its pleading at hearing to reflect an in-home assessment.

4. The ASW prepared a home call letter advising the Appellant of an upcoming in-home assessment on ██████████. (Department's Exhibit A, p. 7)
5. The Appellant disputed the assessment results stating that she needs the HHS – particularly in the areas of cleaning [vacuuming], laundry, and shopping owing to pain in her knee – which limits her mobility to one floor of her residence. (See Testimony)
6. Although unrelated to this hearing, the Appellant added that she has a new diagnosis as of ██████████. The Department pledged to revisit the Appellant with a new 54A- following surgery. (See Testimony)
7. Following notice of appeal rights the Appellant filed the instant request for hearing received by SOAHR on ██████████. (Appellant's Exhibit #1)

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 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 (DHS-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 client and provider, observation of the client'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. When hours exceed the RTS rationale must be provided. (Emphasis supplied)

Adult Service Manual (ASM), §363, pp. 2, 3 of 23, 9-1-2008.

The Department witness testified that on in-office assessment and on observing the Appellant move about her residence the Appellant was found to not need HHS assistance irrespective of the 54A which indicated a need for meal preparation, shopping, laundry and housework services. The witness indicated that the Appellant might need help with heavy housework – but that this was not an HHS provided service.

██████████ also testified that she has another client at the same residence.

The Appellant testified that she needed the services owing, in large part, to knee pain and earlier reported ailments of CTS and arthritis.

It is the province of the ASW to determine eligibility for services; the ASM requires an in-home assessment of the prospective HHS recipients. There is no provision for an in-office assessment under policy. The department and its witness did amend their proofs at hearing to reflect observation of the Appellant in the home.

On review of the evidence the ALJ finds that the comprehensive assessment was drawn according to policy based on the worker's observation and comprehensive assessment of the Appellant in her home.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for HHS.

IT IS THEREFORE ORDERED that:

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

Dale Malewska
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: _____

***** 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.



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Hearing Decision & Order