

**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. 2010-24299 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 Thursday, ██████████. ██████████ appeared on behalf of the Appellant. ██████████, appeals review officer, represented the Department. Her witnesses were ██████████, ASW supervisor and ██████████, ASW.

**ISSUE**

Did the Department properly establish HHS payments 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 ██████████ female Medicaid beneficiary.
2. The Appellant is afflicted with DD, seizure disorder, MR, depression, and constipation. (Department Exhibit B, pp. 10, 12, 13)
3. On ██████████, the ASW conducted an opening visit/assessment of Appellant, her father and sister. (Department's Exhibit B, p. 7)
4. That assessment led to the establishment of a shared household prorated by three with benefits totaling \$ ██████████ in the service areas of bathing, dressing, toileting housework, laundry, shopping and meal preparation. (Department's Exhibit B, p. 9)

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5. On ██████████, the ASW sent the Appellant a DHS 1210-A advising of program approval, rankings and financial limits. (Department's Exhibit B, pp. 2, 9)
6. The ASW observed that ████████ people live in the home. (Department's Exhibit B, p. 7 and See Testimony)
7. The instant request for hearing was received by SOAHR on ██████████. (Appellant's Exhibit #2)

### **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 (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 24, 9-1-2008.

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The Department witness testified that the Appellant's mother was the primary care giver for both (disabled) sisters and the disabled husband – but she had passed away on ██████████. On initial assessment he observed three people living in the home and determined that the father, irrespective of his disabilities, was capable of some light cleaning, shopping, and laundry chores. A female aunt is compensated to perform bathing and certain hygiene chores for the Appellant.

The father's testimony established that his daughter is constipated and requires insertion of a nightly suppository with attendant accidents and nightly bed wetting.

On cross examination of the father the Department established that even though he has a back and shoulder disability – he was capable of doing small loads of laundry and has the ability to drag the laundry – if not the ability to carry.

The following items summarize the ADL/IADL established payments, shared household proration and the ALJ's agreement:

- Meal preparation was established at ██████ days a week, ██████ minutes a day.
- Shopping was established at ██████ days a week, ██████ minutes a day.
- Housework was established at ██████ days a week, ██████ minutes a day.
- Dressing was established at ██████ days a week, ██████ minutes a day.

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- Toileting was established at █ days a week, █ minutes a day.
- Bathing was established at █ days a week █ minutes a day.

However, I believe that based on the evidence and the testimony the Appellant preponderated that Laundry was incorrectly established at █ days a week. The evidence clearly showed that the Appellant's father has a bad back – of some degree – and that the Appellant/child has nightly bed wetting and frequent bowel accidents.

- Laundry should be established at █ minutes a day, but █ days a week – not █ days a week.

A comprehensive assessment and the degree of proration is the responsibility of the ASW and I find that it was properly measured and applied to this Appellant - with the exception of the IADL for laundry.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly established Appellant's HHS payment.

**IT IS THEREFORE ORDERED** that:

The Department's decision is REVERSED.

**IT IS FURTHER ORDERED** that:

The Department shall establish the Appellant's laundry payment and time allocation to reflect 7 days a week at 24 minutes a day.

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

cc:



Date Mailed: 6/7/2010

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**\*\*\* 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.