STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted],

Appellant
_____/

Docket No. 2010-3252 HHS
Case No. [redacted]

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 [redacted]. [redacted] represented himself at hearing.

[redacted], Appeals and Review Officer, represented the Department. [redacted] Independent Living Services Supervisor and [redacted], Adult Services Worker was present as a Department witness.

ISSUE

Did the Department properly deny the Appellant's Home Help Services application?

FINDINGS OF FACT

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

1. The Appellant is a [redacted] year old Medicaid beneficiary who applied for Home Help Services from the Department of Human Services.

2. The Appellant resides in his own apartment. He is ambulatory, and does not use a cane or other assistive device.

3. The Appellant suffers from hypertension, hypercholesterolemia and chronic back pain. (Exhibit 1 page 6)

4. The Department's worker made a home call to conduct a comprehensive assessment on [redacted]. Following the assessment, the worker determined the Appellant's needs were being met and therefore denied eligibility for services.

5. The Department sent Notice of the denial on [redacted] Exhibit 1 pages 4-5)

6. The Appellant requested a formal, administrative hearing [redacted] (Exhibit 1 page 3)

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 client in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.

- Observe a copy of the client'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 department 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 client'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.

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

These are maximums; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

Service Plan Development

Address the following factors in the development of the service plan:

- The specific services to be provided, by whom and at what cost.
- The extent to which the client does not perform activities essential to caring for self. The intent of the Home Help program is to assist individuals to function as independently as possible. It is important to work with the recipient and the provider in developing a plan to achieve this goal.

- The kinds and amounts of activities required for the client's maintenance and functioning in the living environment.
- The availability or ability of a responsible relative or legal dependent of the client to perform the tasks the client does not perform. Authorize HHS **only** for those services or times which the responsible relative/legal dependent is unavailable or unable to provide.
- Do **not** authorize HHS payments to a responsible relative or legal dependent of the client.
- The extent to which others in the home are able and available to provide the needed services. Authorize HHS **only** for the benefit of the client and **not** for others in the home. If others are living in the home, prorate the IADL's by at least 1/2, more if appropriate.
- The availability of services currently provided free of charge. A written statement by the provider that he is no longer able to furnish the service at no cost is sufficient for payment to be authorized as long as the provider is not a responsible relative of the client.
- HHS may be authorized when the client is receiving other home care services if the services are not duplicative (same service for same time period).

Adult Services Manual (ASM) 9-1-2008, Pages 2-5 of 24

On [redacted] the Adult Services Worker (worker) completed an HHS comprehensive assessment in accordance with Department policy. The worker credibly testified that she met with the Appellant and his proposed chore provider, who also lives in the home. The worker testified that she observed the Appellant walking up stairs and within the apartment with no difficulty and that the Appellant stated he goes for long walks, play cards, and is able to stand without difficulty perform tasks such as meal preparation, laundry and housework. (Exhibit 1 pg. 9) Based on observations and the information the worker was provided by the Appellant and his proposed chore provider at the time of the assessment; the worker denied HHS authorization because the Appellant was able to perform his activities of daily living.

The Appellant disagrees with the Department's determination and testified that he lives alone, does not go for long walks or play cards, and has difficulty with stairs. The Appellant testified that he must stop and rest on the landings of the stairwell. The Appellant testified he would not have stated that he takes long walks because he gets shortness of breath and has to use prescribed inhalers. The Appellant noted that he previously received HHS benefits; however the benefits terminated when he was incarcerated for seven months. The Appellant testified that since his release in [redacted], he has lived alone and has been taking care of himself.

The Appellant has the burden of proving, by a preponderance of evidence, that the Department did not properly deny his home help services application. The Appellant did not meet that burden. The Medical Needs form completed by the Appellant's treating physician does not include any diagnosis that supports the Appellant's complaints of shortness of breath and need for prescribed inhalers. (Exhibit 1 pg. 6) The Appellant's testimony regarding his functional abilities and living arrangements conflicts with the workers noted observations as well as the statements made by the Appellant and proposed chore provider during the home visit. Additionally, the Appellant's testimony that he has lived alone and has been taking care of himself since his release form jail does not support eligibility for home help services.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied HHS program eligibility based on the workers observations and the information she was provided by the Appellant and his proposed chore provider at the time of the assessment.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 12/22/2009

***** 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.