

**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:

Docket No. 2010-32855 HHS
[REDACTED]

[REDACTED] /
Appellant

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]. The Appellant appeared without representation. He had no witnesses. [REDACTED], appeals review officer, represented the Department. Her witness was [REDACTED], ASW supervisor.

ISSUE

Did the Department properly assess the Appellant for HHS benefits?

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 [REDACTED] male Medicaid beneficiary.
2. The Appellant is afflicted with the residuals of a [REDACTED] and a [REDACTED], heart attack. Appellant's Exhibit #2.
3. The Appellant self reports "chronic mental health impairment." Appellant's Exhibit #2.
4. The Medical needs form (DHS54A) reports the afflictions of paranoid schizophrenia, renal failure, cardiac failure, and HTN. (Department's Exhibit A, p. 14)
5. On [REDACTED], the ASW conducted an opening visit/assessment of Appellant. (Department's Exhibit A, p. 2)
6. At hearing the Appellant ambulates with the aid of a wheeled-walker.

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7. The [REDACTED], assessment led to the establishment of a shared household (prorated by three) with benefits totaling [REDACTED] in the IADL service areas of housework, laundry, shopping, and meal preparation. (Department's Exhibit A, p. 2)
8. On [REDACTED], the ASW sent the Appellant a DHS 1210-A advising of program approval, rankings and financial limits. (Department's Exhibit A, pp. 2, 5, 6, 9, 10)
9. The ASW observed that three people live in the home where the Appellant rents a room. (Department's Exhibit A, p. 12 and See Testimony)
10. The instant request for hearing was received by SOAHR on [REDACTED] (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 (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.

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
 - Physician.
 - Nurse practitioner.
 - Occupational therapist.
 - Physical therapist.

Exception: DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form. The medical professional certifies that the client's need for

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service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

Adult Service Manual (ASM), §363,
pp. 2, 3, 9 of 24, 9-1-2008.

The Department witness testified that the Appellant's HHS services mirrored the recommendation of his physician on submission of DHS54A. She added that the Appellant only rented a room so there was no whole house cleaning and that the Appellant's meal preparation was adjusted accordingly.

The Appellant said he received some CMH services consisting of "medication and counseling – but not CLS." He added that the Department reported the wrong hourly wage for his worker, which was corrected prior to hearing and reestablished at [REDACTED] an hour. Although he agreed with the corrected wage he said the number of HHS hours awarded for his care was inadequate.

The Appellant did not know why his physician did not report the fact that he required a wheeled-walker to ambulate, but indicated he would obtain further proof for his worker regarding his lack of mobility. The Appellant testified that in addition to his rented room he has access to a common area in the home, shares a bathroom and has kitchen privileges.

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

- Meal preparation was established at 7 days a week, 12 minutes a day.
- Shopping was established at 7 days a week, 3 minutes a day.
- Housework was established at 7 days a week, 3 minutes a day.
- Laundry was established at 7 days a week, 3 minutes a day.

On proof of the need for assistance with mobility the ASW may revisit that ADL, however today the Appellant failed to preponderate his burden of proof that the Department's assessment was in error.

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.

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

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: 8/3/2010

***** 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.