

**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. 2010-33866 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 ██████████. ██████████, attorney, appeared on the Appellant's behalf. ██████████, mother, appeared as a witness for the Appellant. ██████████ was present. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker, and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly assessed and authorized Home Help Services payments to 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. The Appellant is a Medicaid beneficiary.
2. The Appellant is a ██████████ who has been diagnosed with a severe mental retardation, epilepsy, and schizophrenia. (Exhibit 1, pages 8 and 13)
3. On ██████████, a DHS Adult Services Worker (worker) made a visit to the Appellant's home to conduct a Home Help Services assessment. The Appellant, his mother, and a ██████████ worker were present. (Exhibit 1, page 13)

4. As a result of the information gathered for the assessment, the worker authorized HHS hours for the activities of bathing, grooming, dressing, toileting, eating, medication, housework, laundry, shopping, and meal preparation. (Exhibit 1, page 6)
5. The Appellant's mother was enrolled as his HHS chore provider. (Exhibit 1, page 6-7)
6. On ██████████, the Department sent a Services and Payments Approval Notice to the Appellant indicating that Home Help Services payments were approved for ██████████ per month, effective ██████████ (Exhibit 1, pages 4-5)
7. The Appellant's mother subsequently made several calls the Department to clarify information provided at the home visit and requested a new worker. (Exhibit 1, pages 10-12)
8. On ██████████, the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (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 comprehensive 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) made a visit to the Appellant's home to conduct a Home Help Services assessment. The Appellant, his mother, and a [REDACTED] worker were present for the home visit. (Exhibit 1, page 13) As a result of the information provided for the assessment, the worker ranked the Appellant at level 1 for transferring, continence, respirations, and mobility; level 3 for bathing, grooming, dressing, toileting, and eating; and level 5 for medication, housework

laundry, shopping and meal preparation. (Exhibit 1, page 9) HHS hours were authorized for the activities of bathing, grooming, dressing, toileting, eating, medication, housework, laundry, shopping, and meal preparation in accordance with the rankings. (Exhibit 1, page 6)

The Appellant's representative disagreed with the rankings and resulting HHS hours that were authorized. He indicated that bathing, grooming, dressing, toileting, and eating should have been ranked at level 4 or 5. However, the testimony provided by the Appellant's mother did not establish that a ranking at level 4 or 5 would have been more appropriate. Her descriptions of the assistance she provides to the Appellant indicate that the Appellant is able to participate in these activities with some hands on assistance and much supervision, reminding, and guiding. A ranking at level 3 is also appropriate even if the Appellant's mother performs some tasks within each activity, but mostly supervision for other tasks within the activity. For example within the activity of grooming, the Appellant's mother may perform the task of shaving, but provides supervisory assistance with other tasks, such as making sure the tooth brush is clean before the Appellant puts it in his mouth.

The Appellant's representative also argued that transferring and mobility should have been ranked at level 3 and HHS hours should have been authorized for these activities. The testimony and demonstrations provided by the Appellant's mother at the hearing indicated that while she is touching the Appellant, most of the assistance she is providing is supervision, reminding, and guiding. Accordingly a ranking at level 2 for these activities would be appropriate. However, Department policy prohibits HHS hours from being authorized for supervising, monitoring, reminding, guiding or encouraging, a functional assessment rank 2. (Adult Services Manual (ASM) 9-1-2008, Page 14 of 24) This does not imply that the Appellants does not need this type of assistance, but only the HHS program does not compensate for assistance at this level.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly authorized Home Help Services payments to the Appellant.

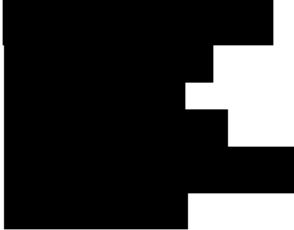
IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**

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

**Docket No. 2010-33866 HHS
Decision and Order**

cc:



Date Mailed: 8/4/2010

***** NOTICE *****

The State Office of Administrative Hearings and Rules March 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 March 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.