

**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. 2010-43927 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 ██████████. ██████████, appeared on her own behalf. ██████████, appeared on behalf of the Appellant and provided testimony.

██████████, represented the Department. ██████████, and ██████████ (ASW) appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services (HHS) payments?

FINDINGS OF FACT

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

1. Appellant is a ██████████ woman with two children. (Exhibit 1, page 7).
2. Appellant has a history of bipolar-mood disorder. (Exhibit 1, page 17).
3. Prior to ██████████, Appellant had been receiving HHS services. (Exhibit 1, page 5).
4. On or about ██████████, the Department received a Department of Human

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Services medical needs form (54-A) filled out and signed by Appellant's physician-psychiatrist. (Exhibit 1, page 6).

5. Appellant's physician-psychiatrist filled out a medical needs form and indicated the Appellant had bipolar-mood disorder but no medical condition that required a need for HHS services. (Exhibit 1, page 17).
6. The Appellant's physician did not indicate a medical need for assistance with bathing and toileting.
7. On [REDACTED], an ASW conducted a reassessment of Appellant's need for HHS with Appellant present in Appellant's home. During the reassessment the ASW asked questions and received answers from the Appellant. (Exhibit 1, pages 9-16).
8. As a result of the reassessment and a review of the medical needs form the ASW determined that the Appellant did not need assistance with bathing and toileting.
9. On [REDACTED], the Appellant's ASW sent an Adequate Action Notice notifying Appellant that her Home Help Services payments would be reduced. The reason given for the reduction was the elimination of bathing and toileting from the tasks authorized for payment. (Exhibit 1, pages 6-11).
10. On [REDACTED], the Department received 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 agencies.

Adult Services Manual (ASM 363, 9-1-08), page 9 of 24 outlines the Department's policy regarding date of HHS authorization:

Necessity for Service

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

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- 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.

According to Department policy, the DHS can not authorize payment for a HHS personal care task unless there is medical professional certification of medical need. The ASW Worker testified that during the application process she noted the Appellant's physician did not certify a medical need for bathing and toileting services for the Appellant. The ASW explained that Appellant was asked to provide information about her medical issues and conditions though the only documentation she provided was one medical needs form from a psychiatrist who indicated only one diagnosis, a psychiatric disorder, bipolar disorder. The Department testified that in order for the Appellant to receive services due to functional limitations there must be medical documentation certifying functional limitations. The ASW testified that because the Appellant provided no medical certification for bathing and toileting assistance, and the reassessment demonstrated no need for bathing and toileting the Department was required to eliminate those tasks from her payment authorization.

At hearing Appellant testified she had multiple medical issues, mostly centering on stomach and abdominal pain. Appellant's mother testified that since Appellant was ██████████ she had issues associated with her menstrual cycle and that she had observed the Appellant with significant abdominal pain. Appellant's only medical documentation provided to the DHS at the ██████████ reassessment was a medical needs form from her psychiatrist with a psychiatric diagnosis.

Because the Appellant did not provide further information about her medical conditions at the time of the ██████████ reassessment the Department was proper not to consider the medical conditions when assessing Appellant. The Appellant stated she also received services from community mental health. It is unknown whether the services provided to the Appellant from community mental health duplicate the services provided by HHS.

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The Appellant bears the burden of proving by a preponderance of evidence that the Department's reduction was not proper. The Appellant did not provide a preponderance of evidence that the Department's reduction was not proper. The Department must implement the Home Help Services program in accordance with Department policy. The Department provided sufficient evidence that it properly reduced the Appellant's HHS payment authorization in accordance with Department policy.


DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced her Home Help Services.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.




Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date mailed: 10/12/2010

***** 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.