

**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:

[REDACTED]

Appellant

\_\_\_\_\_ /

Docket No. 2010-5353 HHS

[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]. [REDACTED] represented herself at hearing. [REDACTED], Appeals and Review Officer, represented the Department. [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] Medicaid beneficiary who applied for Home Help Services from the Department of Human Services.
2. The Appellant suffers from cervical disc herniation, hypertension, spinal stenosis, and non-insulin dependant diabetes mellitus. (Department Exhibit 1, page 10)
3. The Appellant resides in a single story house. She is ambulatory, and does not currently use a cane or other assistive device. (Appellant Exhibit A, page 24)
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 condition was not severe enough to warrant Home Help Services and therefore denied eligibility for this program.

5. The Department sent Notice of the denial on ██████████. (Department Exhibit 1, pages 4-7)
6. The Appellant requested a formal, administrative hearing ██████████. (Department 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.

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- 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.

**Note: Unavailable** means absence from the home, for employment or other legitimate reasons. **Unable** means the responsible person has disabilities of his/her own which prevent caregiving. These disabilities must be documented/verified by a medical professional on the DHS-54A.

- 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 363) 9-1-2008, Pages 2-5 of 24*

On ██████████ the Adult Services Worker (worker) completed an HHS comprehensive assessment in accordance with Department policy. The worker credibly testified that he met with the Appellant who stated that she is able to get access to a car and is able to do her own shopping and laundry. The worker explained that the Appellant only indicated she needed assistance with mopping/scrubbing the kitchen

floor and changing the sheets on the bed. The worker stated that the housework in the kitchen would be considered heavy housework and the home help services program only covers light housework. The worker testified that the Appellant stated her son stays in her home on the weekends and other family members are in the area. The worker stated he felt that the Appellant's family could assist with changing the sheets on the bed. Based on his observations and the information the worker was provided by the Appellant at the time of the assessment; the worker denied HHS authorization because the Appellant's circumstances did not warrant eligibility for Home Help Services payments.

The Appellant disagrees with the Department's determination and testified that she was not requesting heavy housework such as stripping the kitchen floor, just normal sweeping/mopping. Under Department policy, housework does include sweeping, vacuuming and washing floors. Adult Services Manual (ASM 365) 10-1-1999, Page 2 of 2. The Appellant stated she is unable to mop or sweep and has hired someone to do this for her twice a month since [REDACTED]. The Appellant explained that she also has a hard time changing the bed sheets because of the way she has to half lean/bend over. The Appellant stated that she changes the sheets about twice a month. The Appellant also testified she has some problems with doing the dishes, shopping, and laundry.

The Appellant also testified that her son only spends the nights there on weekends. The Appellant explained that her son works as a live in caregiver at an adult foster care facility 5 days a week. The Appellant stated that her son does not stay around the home during the days on the weekends and that she does not have other family members who come by to assist her on a weekly basis.

The Department worker properly considered the availability of others in the home, her son, to provide the Appellant assistance with these activities. Under Department policy, the Appellant's son would be considered unavailable to assist during the week while he is working and required to stay at the Adult Foster Care facility. However, he would be considered available on the weekends when he is not working. Adult Services Manual (ASM 363) 9-1-2008, Page 5 of 24. The Appellant testified that the activities she needs assistance with are only done about twice a month.

The Appellant has the burden of proving, by a preponderance of evidence, that the Department did not properly deny her home help services application. The Appellant did not meet that burden.

### **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 he was provided at the time of the assessment.

**IT IS THEREFORE ORDERED** that:

The Department's decision is **AFFIRMED**.

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

cc:



Date Mailed: 1/8/2010

**\*\*\* 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.