

**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. 2010-54959 HHS

██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant, ██████████, was present for the hearing. The Appellant's mother and chore provider, ██████████, represented the Appellant at the hearing. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Department of Human Services (DHS) Adult Services Worker (worker), appeared as a witness for the Department. ██████████, Adult Services Supervisor, was also present.

ISSUE

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

FINDINGS OF FACT

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

1. The Appellant is a Medicaid beneficiary.
2. The Appellant resides with his mother. (Testimony of ██████████
Testimony of ██████████)
3. On ██████████, the worker made a visit to the Appellant's home to conduct an annual HHS assessment. (Exhibit 1, page 9)

4. As a result of the information gathered at the assessment, that the Appellant lives with his mother, the worker decreased the HHS hours authorized for housework, shopping, laundry, and meal preparation for the Appellant. (Exhibit 1, pages 6-8).
5. On [REDACTED], the Department sent an Advance Negative Action Notice, notifying the Appellant that his Home Help Services payments would be reduced to [REDACTED] per month, effective [REDACTED]. (Exhibit 1, pages 6-8).
6. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit 1, pages 3-5).

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.

The purpose of HHS is 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 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 ██████████, the worker completed an HHS comprehensive assessment for redetermination in accordance with Department policy. The worker testified that she was new to the Appellant's case, and she discovered that it was not in compliance with policy because the Appellant's IADL's had not been prorated based on his shared living arrangement. The worker explained that the HHS hours authorized for housework, laundry, shopping, and meal preparation were decreased. The worker further explained that proration was applied to the HHS hours for these activities in accordance with Department policy requiring that these IADL's be prorated based upon the number of adults living in the home.

The Appellant's mother testified that she does not believe that Appellant's HHS payments should be reduced. She did not dispute that he resides in her home. Instead, she explained that she is required to do laundry everyday for the Appellant because of his incontinence issues. She further stated that she must purée all of the Appellant's food and is required to run to the store more often for the Appellant's milk. However, the Appellant's mother could not identify a task that she is not receiving an adequate amount of time for if she only considers the time that she spends on the tasks for Appellant's benefit only.

The policy implemented by the Department recognizes that in most cases, certain tasks are performed that benefit all members who reside in the home together, such as cleaning, laundry, shopping, and meal preparation. Therefore, it is appropriate to prorate the payment for those tasks by the number of adults residing in the home together, as the other adults in the household would have to clean their own home, make meals, shop, and do laundry for themselves if they did not reside with the Appellant. The HHS program will not compensate for tasks that benefit other members of a shared household. Accordingly, the authorized hours for these activities must be prorated under Department policy.

Department policy allows for a maximum of 6 hours per month for housework, 5 hours per month for shopping, 7 hours per month for laundry, and 25 hours per month for meal preparation. Here, the Department authorized 3 hours and 1 minute per month for housework, 2 hours and 30 minutes per month for shopping, 3 hours and 31 minutes per month for laundry, and 12 hours and 32 minutes per month for meal preparation. (Exhibit 1, page 11) The authorized hours are approximately one-half of the maximum allowed for each of these activities and are reflective of the Appellant's household composition and rankings for these activities.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly reduced the Appellant's HHS payments in the areas of housekeeping, shopping, laundry, and meal preparation.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Kristin M. Heyse
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

**Docket No. 2010-54959 HHS
Decision and Order**

cc:



Date Mailed: 12/9/2010

***** 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.