

**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. 2010-564 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 behalf of the Appellant. ██████████
██████████, represented the Department. ██████████,
appeared as a witness for the Department.

ISSUE

Did the Department perform a proper comprehensive assessment?

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 ██████████ man with developmental disability including cognitive deficits. (Exhibits 1, 2).
2. Appellant is a Medicaid beneficiary.
3. The Appellant lives with his brother.
4. Appellant's brother is his chore provider.
5. Appellant has received Home Help Services in the past, but was not enrolled in ██████████.
6. On ██████████, an Adult Services Worker made a visit to Appellant's home to conduct an initial Home Help Services assessment. (Exhibit 1, page 6).

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7. As a result of the information gathered from the Appellant at the assessment the worker authorized Home Help Services for bathing, grooming, dressing, medication, housework, laundry, meal preparation and shopping for the Appellant. (Exhibit 1, pages 9, 10).
8. Department policy requires the tasks of housework, laundry, meal preparation and shopping to be prorated by the number of people living in the home. The Adult Services Worker applied the proration policy to Appellant's authorization of housework, laundry, meal preparation and shopping.
9. On [REDACTED], the Department sent a Services Approval Notice notifying Appellant that his Home Help Services payments would be approved for [REDACTED] per month, retroactively effective to [REDACTED]. (Exhibit 1, pages 5-6).
10. On [REDACTED], the State Office of Administrative Hearings and Rules received Appellant's Request for Hearing. (Exhibit 1, pages 4-6).

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 outlines the Department's policy regarding assessment for HHS:

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 customer in his/his 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 redetermination.
- 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 for food and other necessities of daily living
- Laundry
- 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 March 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 customer and provider, observation of the customer'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 for food and other necessities of daily living
- 6 hours/month for housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

These are maximums; as always, if the customer needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements. (Underline added).

The Adult Services Worker (worker) testified that an initial HHS comprehensive assessment was performed in accordance to Department policy. The worker further testified that using the functional scale, based on the information she was provided at the time of the assessment, she authorized HHS for bathing, grooming, dressing, medication, housework, laundry, meal preparation and shopping for the Appellant. (Exhibit 1, pages 9, 10). The

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evidence demonstrates the worker properly performed the initial HHS comprehensive assessment.

The worker stated she applied proration in accordance with HHS policy for housework, laundry, meal preparation and shopping for the Appellant. (Exhibit 1, pages 9, 10). The evidence demonstrates the worker applied the HHS proration policy properly.

The worker testified she used the functional scale to rank the Appellant as the follows:

Bathing (3),
Grooming (4),
Dressing (4),
Medication (5)
Housework (4),
Laundry (4),
Meal preparation (4) and
Shopping (4). (Exhibit 1, pages 10).


The Appellant's representative/brother testified that he has been a chore provider for Appellant for [REDACTED]. Appellant's representative/brother explained that from [REDACTED], there was a break in HHS enrollment which led to a new/initial assessment being conducted in [REDACTED]. The Appellant's representative/brother did not necessarily dispute the comprehensive assessment or rankings, rather he disagreed with the payment authorization of [REDACTED], claiming he received more than that monetary figure five and ten years ago.

It is noted that approximately five years ago the Department mandated a proration of payment authorization for housework, laundry, meal preparation and shopping. Around the same time the Department mandated a cap on the payment authorization and hourly rate paid for housework, laundry, meal preparation and shopping. The Appellant said he thought it odd that he should get less money for providing HHS services than five to ten years ago. It is important to note and for the Appellant to know that HHS is bound by Department policy and must apply proration and caps on payment amounts for housework, laundry, meal preparation and shopping, as well as a freeze on hourly rates for all HHS tasks.

The Appellant did not provide a preponderance of evidence that the Department performed an improper comprehensive assessment or applied policy improperly. The Department provided sufficient evidence that it performed a proper comprehensive assessment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department performed a proper comprehensive assessment.


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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: 12/23/2009

***** 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.