

**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. 2010-5816 HHS

Case No. ██████████

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████ ██████████ appeared on his own behalf. ██████████, the Appellant's brother, appeared as a witness. ██████████ Appeals and Review Officer, represented the Department. ██████████, Adult Services Worker was present as a Department witness.

**ISSUE**

Did the Department properly terminate 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 who was receiving Adult Home Help Services.
2. The Appellant moved in ██████████ and lives with his brother.
3. The Appellant is diagnosed with coronary artery disease, hypertension, and diabetes. (Exhibit 1, page 10)
4. On ██████████, an Adult Services Worker conducted an in home assessment with the Appellant for continuing eligibility for Home Help Services. (Exhibit 1, page 9)

5. As a result of the information gathered from the Appellant at the assessment and the information from the Appellant's physician, the ASW determined that Home Help Services were no longer needed because the Appellant's health appears to be stable. (Exhibit 1, page 9)
6. On ██████████, the Department issued an Advance Negative Action Notice to the Appellant that his Home Help Services payments would terminate, effective to ██████████ (Exhibit 1, pages 4-6)
7. The Appellant requested a formal, administrative 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 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) 9-1-2008, 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.

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

On ██████████ the Adult Services Worker (worker) completed an HHS comprehensive assessment for redetermination in accordance with Department policy. The worker testified that during this visit, the Appellant stated he was able to walk and stand on his own without a cane for the short distance to ██████████. The worker stated that medical diagnoses were discussed and the Appellant stated his diabetes and blood pressure were under control. The worker testified that using the functional scale, based on her observations and the information she was provided at the time of the assessment, she decreased the Appellant's functional assessment rankings to level 1 for all activities except mobility which she ranked at level 2. Department policy specifies

that Home Help Services can only be authorized for needs assessed at the 3 level or greater. Adult Services Manual (ASM 363) 9-1-2008, Pages 3 of 24. Accordingly, the worker determined that the Appellant no longer qualified for Home Help Services payments.

The Appellant disagrees with the determination and testified that he also has limitations from to a hip fracture that occurred three or four years ago. The Appellant explained that while his diabetes and blood pressure are stable, his doctors state there is still too much of a risk from his heart condition to perform the needed hip replacement surgery. The Appellant's brother testified that the Appellant is not mobile enough to do his own shopping and prepare his own meals.

The worker testified that the only diagnoses included in the information provided to the Department by the Appellant's physician were coronary artery disease, hypertension, and diabetes. (Exhibit 1, page 10) Since the Appellant's hip fracture and related limitations were not raised during the [REDACTED], assessment and were not documented by the Appellant's physician, the worker could not have considered the effects of this condition when completing the re-determination. Based on the information available to the Department at the time of the re-determination eligibility for continuing Home Help Services not supported.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly terminated home help assistance payments for the Appellant based on the information available at the time of the re-determination.

**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:

[REDACTED]

[REDACTED]  
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Date Mailed: 1/11/2010

**\*\*\* 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.