

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2010-5823 HHS  
Case No. 21668834

██████████  
Appellant  
\_\_\_\_\_ /

**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 ██████████ ██████████ Appellant's daughter-in-law, appeared on behalf of the Appellant. The Appellant and the Appellant's daughter/chore provider, ██████████ were present.

██████████, represented the Department. ██████████, appeared as a witness for the Department.

**ISSUE**

Did the Department properly reduce 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. Appellant is a ██████ year-old woman. (Exhibit 2).
2. Appellant is a Medicaid beneficiary.
3. Appellant's chore provider is her daughter, ██████████. (Exhibit 1, Page 18).
4. Appellant's representative at hearing is her daughter-in-law.
5. Appellant lives with at least her adult son.
6. On ██████████, Appellant's doctor filled out a medical needs form, DHS-54A and indicated the Appellant had high blood pressure, high cholesterol, back pain and chest pain. (Exhibit 3).

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7. On ██████████, Appellant's doctor filled out a medical needs forms and indicated the Appellant had no medical need for services other than the Instrumental Activities of Daily Living (IADLs): Shopping, Housework, Laundry and Meal Preparation. (Exhibits 3-4).
8. On ██████████, Appellant's Adult Services Worker (ASW) made a visit to Appellant's home to conduct a required Home Help Services reassessment. Appellant and her daughter/chore provider were present in Appellant's home. During the assessment the ASW asked questions and received answers from both the Appellant and her chore provider.
9. During the reassessment the ASW observed the Appellant walking without assistance. (Exhibit 1, Page 16). The ASW also noted that medical tests showed the Appellant had no lumbar radiculopathy, no hospitalizations and no medical treatments. (Exhibit 1, Page 16).
10. On ██████████ the Department sent a Negative Action Notice notifying Appellant that her Home Help Services payments would be reduced to ██████████ effective ██████████. The reason given was that the Appellant had no medical certification for bathing assistance, and her meal preparation authorization had not previously been prorated. (Exhibit 1, Pages 13-14).
11. On ██████████ the Department received Appellant's Request for Hearing. (Exhibit 1, Pages 3-12).

**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.

The ASW supervisor testified that a comprehensive assessment was completed on ██████████ at which the Appellant and Appellant's daughter/chore provider were asked questions and provided answers.

Adult Services Manual (ASM 363, 9-1-08), pages 2-4 of 24, addresses the issue of assessment:

## **COMPREHENSIVE ASSESSMENT**

The Adult Services Comprehensive Assessment (DHS-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/her 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

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- 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 April 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 readaughter-in-lawable time schedule (RTS) as a guide. The RTS can be found in **ASCAP** under the **Payment** module, Time and Task screen.

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**IADL Maximum Allowable Hours**

There are monthly maximum hour limits on all IADLs except medication. The limits are as follows:

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- Five (5) hours/month for shopping .
- Six (6) hours/month for light housework.
- Seven (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 by ALJ).

Adult Services Manual (ASM 363 9-1-08), page 5 of 24 requires a DHS worker to address:

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 customer 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. (Underline added by ALJ).

**Removal of authorization for assistance with bathing –**

The ASW supervisor testified that during the reassessment the Appellant and her daughter/chore provider informed the ASW that Appellant refused a chair for the shower because her daughter helped her in the shower. The ASW supervisor testified that the ASW observed that the prior two medical needs forms signed by the Appellant's physician indicated the Appellant did not need assistance with bathing. Because the Appellant had no medical certification for bathing and was observed walking unassisted, the time authorization was removed.

The Appellant's daughter-in-law/representative testified that the Appellant already had a small stool in the bath tub. The Appellant's daughter-in-law/representative added that the Appellant has lower back pain and she unstable getting into the tub. The medical test results attached to Appellant's request for hearing show that most of the tests were conducted after the [REDACTED], home visit and therefore, could not have been considered by the ASW in her removal determination. This Administrative Law Judge is limited to considering only documentation the Department had at the time of its reduction in services. The document evidence corroborates the ASW supervisor's testimony and supports the Department's action to remove payment authorization for bathing.

**IADL of Meal Preparation prorated -**

As stated above in Department policy, the DHS **must** divide the number of authorized hours for IADLs by the number of people in the household. Upon discovering that the Appellant's IADL time authorization for meal preparation had not been prorated, the DHS worker prorated the IADL time authorization. The evidence in this case establishes that both the Appellant and at least her adult son were living in the home at the time the DHS worker performed the [REDACTED] assessment. The DHS worker was mandated to prorate the IADL time authorization and did so properly.

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The Appellant's daughter-in-law/representative testified that Appellant's son worked, was not home for some of the meals eaten by Appellant, and ate different foods than the Appellant. The Appellant's daughter-in-law/representative further testified that Appellant had diabetes and needed more payment authorization to pay for the extra food shopping and food preparation related to her special diabetes diet. It is important to note that in the most recent medical needs form Appellant's doctor does not indicate she has diabetes and does not specify a special diet for diabetes. The evidence demonstrates that the Department's reduction in authorization for meal preparation was proper.

Furthermore, the Appellant's daughter-in-law/representative provided no evidence to establish why she or Appellant's daughter could not assist their own mother/mother-in-law free of charge to the state.

The evidence of record demonstrates the Adult Services Worker properly performed a HHS reassessment in accordance to Department policy. She went to the Appellant's home and asked review questions of the Appellant and her chore provider. Based on the information the ASW was provided by the Appellant and her chore provider at the time of the assessment the ASW reduced HHS authorization.

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 to Department policy. The Department provided sufficient evidence that it properly reduced the Appellants' 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.

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

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cc:

[REDACTED]

Date Mailed: 02/23/2010

**\*\*\* 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.