

**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. 2010-1491 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 ██████████. The Appellant appeared without representation. She had no witnesses. ██████████, appeals review officer, represented the Department. Her witness was ██████████.

**ISSUE**

Did the Department properly reduce the Appellant's home help services (HHS)?

**FINDINGS OF FACT**

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

1. At the time of hearing the Appellant is a ██████████, disabled, Medicaid and SSI beneficiary.
2. The Appellant is afflicted with major depression with psychotic features, PTSD, IDDM<sup>1</sup>, broken thumb and a "pinched leg nerve." (Department's Exhibit A, pp. 6, 12)
3. On ██████████, ASW ██████████, sent the Appellant notice that services were being reduced following in-home assessment on ██████████. (Department's Exhibit A, p. 3 and See Testimony)

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<sup>1</sup> See Testimony of Appellant "I was diagnosed as insulin dependent sometime in ██████████ after the in-home visit."

4. The ASW said the reduction was in the category of meal preparation – following the observation and statement of the Appellant on the in-home visit. (Department’s Exhibit A, p. 3 and See Testimony)
5. On the face-to-face home visit the ASW documented that the Appellant said she does not eat breakfast. There was a corresponding reduction in time allowance resulting in a \$40.85 monthly payment reduction to her benefit. (See Department’s Exhibit A pp. 2, 3, 5 and Testimony of parties).
6. The Appellant’s chore provider was not present at hearing or the in-home assessment.
7. Following receipt of DHS 1212 and notice of appeal rights the Appellant filed the instant request for hearing received by SOAHR on [REDACTED] (Appellant’s Exhibit #1)

### **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 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.

### **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 re-determination.
- 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
- 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. When hours exceed the RTS rationale must be provided. (Emphasis supplied)

Adult Service Manual (ASM), §363, pp. 2, 3 of 23, 9-1-2008.

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The Department witness testified that on in-home assessment the Appellant said she did not eat breakfast. All else being in order on assessment the ASW reduced the HHS benefit by time allotment from 44 minutes per day to 32 minutes per day – resulting in a ██████████ reduction in HHS payment per month. She did not change the Appellant's ranking.

The Appellant said she did not remember what she told the ASW.<sup>2</sup>

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<sup>2</sup> The Appellant alleges memory issues owing to consumption of multiple medications and mental illness.

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**Hearing Decision & Order**

The Appellant testified that following the in-home assessment she was diagnosed as an IDDM. She said her doctor told her not to skip breakfast.

On review of the evidence the ALJ finds that the comprehensive assessment was accurate and drawn according to policy. By definition the Appellant showed to the ASW that she did not eat breakfast. That she is now IDDM represents a change in condition unknown to the ASW at the time of in-home assessment. The assessment was correct when made.

The Appellant did not preponderate that the Department erred in the adjustment of her grant based on the ASW observations as of [REDACTED].

A comprehensive assessment is the responsibility of the ASW and I find that it was properly measured and applied to this Appellant.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced the Appellant's Home Help Services.

**IT IS THEREFORE ORDERED** that:

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

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Dale Malewska  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 12/4/2009

**\*\*\* 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.