

**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. 2010-17427 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 ██████████ and continued until ██████████, ██████████ appeared on behalf of the Appellant. His witness was ██████████, 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 ██████████, female, Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with DM type 2, asthma, morbid obesity, chronic back pain, CHF, depression, hypothyroidism, Bi-polar disorder arthritis and neuropathy. (Department Exhibit A, pp. 10, 12 and See Testimony)
3. On ██████████, the ASW conducted an in-home assessment for the Appellant that led to a reduction in services owing to a reduction in grooming and meal preparation. Assistance with medication was removed – all based on the in home assessment. (Department's Exhibit A, p. 2)
4. This action resulted in a total care cost which was reported as ██████████. (Department's Exhibit A, pp. 2, 8)

5. On ██████████, an advance negative action notice was sent to the Appellant advising her of the above reduction reported as effective ██████████ (Department's Exhibit A, pp. 2, 4)
6. The Appellant's HHS benefit was reduced from ██████████ per month to ██████████ based on the statements of the Appellant to the ASW at in-home assessment. (Department's Exhibit A, pp. 2, 5 8, 9 and See Testimony)
7. The instant appeal was received by the State Office of Administrative Hearings and Rules for the Department of Community Health on ██████████.

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 24, 9-1-2008.

The Department witness testified that on in-home assessment the Appellant told her that she takes her own medications and administers her own insulin shots. The ASW added that the Appellant said that she prepared her own breakfast and lunch and just needed help doing her nails under the rubric of grooming. The ASW changed the Appellant's ranking for meal preparation from a 4 to a 3 and reduced Grooming to 7-minutes a day.

The Appellant said, and the ASW agreed, that the Appellant had recently undergone shoulder surgery. The ASW testified that she was not informed of this development until she observed the obvious results at hearing.

The Appellant testified that her meals were prepared ahead of time by her daughter choreprovider. She said she needs help with grooming beyond nail maintenance. The choreprovider testified that she shaves the Appellant's legs and applies lotion to her toes and feet because the Appellant cannot reach them.

The Appellant said she needs extensive assistance with medication set up and injection administration owing to her size. She said that because she now shakes [a new

diagnosis] and has poor vision it is too difficult to do medication set-ups for fear of dropping pills or accidental overdosing.

The medical evidence did not support a “shaking” diagnosis – although the Appellant seemed sincere in her testimony. Post surgery it would appear that the Appellant has several newly aggravated conditions creating new and temporary needs for assistance. It is incumbent on the Appellant to stay in touch with her worker and report new developments – in a timely manner. Clearly, she has not in this case.

As for the in-home assessment, I found the ASW testimony controlling that the reductions in HHS were made based on her observations and upon what the Appellant said during their face-to-face meeting.

The following represents the action taken by the Department and the ALJ’s agreement:

- Medication – was eliminated, because the Appellant said she self managed
- Grooming – was reduced because the Appellant said that she only needed help doing her nails.
- Meal Preparation – was reduced because the Appellant said she took care of two thirds of her meal preparation.

On review of the testimony and the evidence the Administrative Law Judge finds that the comprehensive assessment was accurate and drawn according to policy. The Department properly reduced the HHS benefit to coincide with the Appellant’s level of need on [REDACTED]. If there has been subsequent expansion of need as a consequence of recent shoulder surgery – the Appellant needs to contact the ASW to inform her of her new needs for assistance.

The Appellant failed to preponderate that the ASW assessment was inaccurate on [REDACTED].

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 meal preparation and grooming allocation, and properly eliminated her medication allocation based on information and observation obtained on [REDACTED], at the Appellant’s home visit.

IT IS THEREFORE ORDERED that:

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

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

cc:


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Date Mailed: 4/15/2010

***** 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.