

**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. 2010-24354 HHS
Case [REDACTED]

[REDACTED]
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 [REDACTED]. [REDACTED] appeared on his own behalf. [REDACTED], represented the Department. [REDACTED]; and [REDACTED] (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly authorize 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. Appellant is a [REDACTED] year-old man. (Exhibit 2).
2. Appellant is a Medicaid beneficiary.
3. Appellant lives with at least one other adult. (Exhibit 1, Pages 10-12).
4. On [REDACTED], an ASW conducted a reassessment of Appellant's need for HHS with Appellant present in Appellant's home. During the reassessment the ASW asked questions and received answers from the Appellant. (Exhibit 1, Pages 10-12).

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5. During the [REDACTED], reassessment the Appellant told the ASW, or the ASW observed, that the Appellant did not need assistance with bathing, grooming, dressing, mobility and medications. Because the Appellant did not have a need for those HHS services the time and tasks for bathing, grooming, dressing, mobility and medications were removed from Appellant's HHS payment authorization. (Exhibit 1, Pages 10-12).
6. The ASW prorated the remaining instrumental activities of daily living, shopping, housework, laundry and meal preparation, by two (2) according to Department proration policy.
7. On [REDACTED] Appellant's DHS-54A was received by the Department. Appellant's doctor filled out a medical needs form and indicated the Appellant only had one diagnosis: cervical myelopathy. Appellant's doctor did not indicate the cervical myelopathy was serious, required mobility aids, or required pain medications, instead the doctor indicated Appellant only needed physical therapy. (Exhibit 1, Page 15).
8. On [REDACTED], the Department sent a Services and Payment Approval Notice notifying Appellant that Home Help Services payments would be approved only for shopping, housework, laundry and meal preparation, because the doctor only indicated one diagnosis: cervical myelopathy. (Exhibit 1, Pages 8-9).
9. On [REDACTED], the Department received Appellant's Request for Hearing. (Exhibit 1, Pages 4-7).
10. On [REDACTED], the State Office of Administrative Hearings and Rules received a medical needs form signed by Appellant's doctor on [REDACTED]. (Exhibit 2). Appellant's indicated the Appellant did not have a medical need for bathing, grooming, dressing, mobility and medication services but may need assistance only for shopping, housework, laundry and meal preparation (the Instrumental Activities of Daily Living (IADLs)). (Exhibit 2).

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 testified that a comprehensive assessment was completed on [REDACTED], at which the Appellant was asked questions and for which he 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/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

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- 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 April only be authorized for needs assessed at the three (3) level or greater.

Time and Task

The worker will allocate time for each task assessed a rank of three (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:

- 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 bathing, grooming, dressing, mobility and medication services –

The ASW testified that during the reassessment the Appellant told the ASW, or the ASW observed, that the Appellant did not need assistance with bathing, grooming, dressing, mobility and medications. Because the Appellant did not have a need for those HHS services the time and tasks for bathing, grooming, dressing, mobility and medications were removed from Appellant's HHS payment authorization. (Exhibit 1, Pages 10-12). The ASW testified that because the Appellant did not have a need for those HHS services the time and tasks for bathing, grooming, dressing, mobility and medications were removed from Appellant's HHS payment authorization. (Exhibit 1, Pages 10-12).

The Appellant testified that he uses a cane and has to take morphine. But the medical certification evidence at the time showed that Appellant's doctor indicated the Appellant only had one diagnosis: cervical myelopathy. (Exhibit 1, Page 15). The credible evidence demonstrated that Appellant's doctor did not indicate the cervical myelopathy was serious, or that he needed to use a cane for his neck (cervical condition) or that pain medication was necessary, instead the doctor indicated he only needed physical therapy. (Exhibit 1, Page 15). The credible evidence supports the Department's removal of services.

The Appellant asserted that he used to get more money from HHS previously. However, the [REDACTED], medical needs form the Appellant submitted established that his doctor indicated the Appellant did not have a medical need for bathing, grooming, dressing, mobility and medication services but may need assistance only for shopping, housework, laundry and

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meal preparation IADLs. (Exhibit 2). The evidence demonstrates that the Department's removal of bathing, grooming, dressing, mobility and medications was proper.

Proration of the IADL of Shopping, Housework, Laundry and Meal Preparation and -

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. The ASW authorized the Appellant for the IADLs of shopping, housework and meal preparation. The evidence in this case establishes that both the Appellant and at least one other adult 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.

The evidence demonstrates that the Department's authorization for IADLs was proper.

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

The Appellant bears the burden of proving by a preponderance of evidence that the Department's authorization was not proper. The Appellant did not provide a preponderance of evidence that the Department's authorization 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 assessed 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 authorized his Home Help Services.

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

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CC:



Date Mailed: 06/07/2010

***** 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.