

**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. 2010-28775 HHS  
Case No. [REDACTED]

[REDACTED],  
Appellant

\_\_\_\_\_ /

**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 on [REDACTED]. [REDACTED] appeared on behalf of the Appellant. [REDACTED], represented the Department. Her witnesses were [REDACTED], Adult Services Worker (ASW) and [REDACTED], ASW supervisor.

**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 [REDACTED] Medicaid beneficiary.
2. The Appellant is afflicted with bilateral hip bursitis, HTN, CHF, CVA, DM, cataracts, Glaucoma, kidney problems and arthritis. (Department Exhibit A, pp. 13, 18)
3. On [REDACTED], the ASW conducted a face-to-face yearly reassessment that led to a reduction in services owing to elimination of the tasks of grooming and mobility owing to independence. The tasks of shopping and housework were prorated based on a shared household. (Department's Exhibit A, pp. 2, 9,10 and See Testimony)
4. On [REDACTED], an Advance Negative Action Notice [effective [REDACTED] [REDACTED]] was sent to the Appellant informing her of the service reduction and her further appeal rights. (Department's Exhibit A, pp. 2, 4)
5. The notice specified the new assessment and set the Appellant's HHS payment [incorrectly] at \$ [REDACTED] per month. The correct rate was established at \$ [REDACTED], following correction in the payment system. (Department's Exhibit A, pp. 2, 4)

6. The instant appeal was received by the State Office of Administrative Hearings and Rules for the Department of Community Health on [REDACTED].

### **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.

### **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.

### Service Plan Development

Address the following factors in the development of the service plan:

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- 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).

(Emphasis supplied) *Supra*, p. 5 of 24.

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The Department witness testified that the ASW on in-home assessment observed the Appellant and found her to be mobile and capable of self-grooming. The witness acknowledged a shared household by Appellant and daughter via review of ASW notes documenting the daughter's statement that she resides with the Appellant because she should not be left alone. See Department's Exhibit A, at page 10.

The Department witness further explained that meal preparation was not prorated – owing to the preparation of special DM meals for the Appellant.

The Appellant's representative testified that no one was "here at night" and that the original ASW was to have mailed some logs to the residence but they were misdirected in the U.S. Mail – accordingly, corrective action checks were not received by the proper party.

The Appellant's representative said that she filed a police report in ██████████ indicating that mail had been taken by someone living at the residence with the same last name as the Appellant. The Department witness testified that if checks were still missing [even though the department showed them all as paid] she would have to request an accounting on the last issued checks to look for forged endorsements, etc. She said she would do so if requested.

On review of the evidence the ALJ finds that the comprehensive assessment was accurate and drawn according to policy. By definition the Appellant demonstrated to the ASW on the scene that during the in-home visit, she was in an improved condition and no longer required assistance with grooming and mobility. As for the shared household determination the greater weight of the evidence supports the written documentation, if not the testimony today, that one or more persons lived with the Appellant during the in home assessment. If circumstances have changed it is incumbent on the Appellant to advise her ASW immediately.

The ALJ agreed with the following task and time adjustments prepared by the ASW following her in-person assessment:

- Grooming and mobility – were eliminated for the reasons stated above.
- Shopping and housework were retained – but reduced owing to a proper application of shared household policy.
- The choreprovider's wage was corrected to reflect an hourly rate of \$8.00

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

If checks have been absconded by someone with access to the Appellant's residence – counter to Department records - the Appellant's representative was advised on the mechanism for investigation of that complaint with the DHS.

Accordingly, I find that the HHS reduction was correctly decided based on today's record.

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 HHS payment.

**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: 06/28/2010

**\*\*\* 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.