

**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. 2010-39416 HHS

Case No. ██████████

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 ██████████. The Appellant appeared without representation. Her witness was ██████████. ██████████, represented the Department. Her witness was ██████████.

ISSUE

Did the Department properly establish Home Help Services (HHS) payments for 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. At the time of hearing the Appellant is a ██████████ female Medicaid beneficiary.
2. The Appellant is afflicted with DM, sleep apnea, asthma, SOB, back pain, bipolar disorder and depression. (Department Exhibit A, p. 15, Department's Exhibit B, p. 24)
3. On ██████████, the ASW conducted an opening visit/assessment of Appellant. (Department's Exhibit A, p. 2)
4. An approval notice was sent to the Appellant, on ██████████, advising her that HHS was established in the amount of ██████████. (Department's Exhibit A, p. 2)
5. On ██████████, a DHS1212 Advance Negative Action Notice was sent to the Appellant in error. (See Testimony of ASW ██████████)

6. On ██████████, the Appellant brought the instant appeal seeking additional hours for meal preparation. (Appellant's Exhibit #1, and See Testimony of the Appellant)

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.

The Department witness testified that there was no negative action. However there was miscommunication between the parties regarding the medical needs form. Once corrected the HHS was awarded in line with the recommendations of the Appellant's physician. See Department's Exhibit B. The Department witness explained that the proration of HHS remained in place for meal preparation – because diabetic meals are considered “healthy meals” which can be consumed by all members of the residence.

She added that her housework allocation resulted from discussion with the Appellant's physician who remarked that the Appellant walked with a cane and suffered from shortness breath on activity and that such activity aggravated her low back pain.

The Appellant testified that she needed extra time for meal preparation because she is frequently drowsy owing to her medications or blood sugar levels.

The Appellant explained her disability as the result of an automobile accident leaving her dependent on her mother for meal preparation.

The following items summarize the IADL established payments, shared household proration [by 2] and the ALJ's agreement:

- Medication was established at 7 days a week, 2 minutes a day
- Meal preparation was established at 7 days a week, 9 minutes a day.
- Shopping was established at 2 days a week, 18 minutes a day.
- Housework was established at 4 days a week, 9 minutes a day.
- Laundry was established at 2 days a week, 45 minutes a day.

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

If future events demonstrate a need for additional time for meal preparation that task can be examined on annual reassessment or change of condition.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly established Appellant's HHS payment.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge

cc:



Date Mailed: 8/16/2010

***** 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.