

**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. 2010-53456 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 ██████████. ██████████ appeared on her own behalf. ██████████ appeared as a translator.

██████████, and ██████████ were present as witnesses for the Appellant. ██████████, represented the Department.

██████████, were present as Department witnesses.

**ISSUE**

Did the Department properly terminate Home Help Services payments to 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. The Appellant is a ██████████ Medicaid beneficiary who was receiving Adult Home Help Services.
2. The Appellant has been diagnosed with hepatitis C, dementia, obesity and hypertension. (Exhibit 1, page 8)
3. The Appellant moved from ██████████ to ██████████ around ██████████. (Exhibit 1, page 7)
4. The Appellant's Home Help Services (HHS) case was transferred to a new Adult Services Worker (ASW) in ██████████ in ██████████. (ASW Testimony)

5. The Appellant's HHS case was due for a review assessment in ██████████ and a home visit was scheduled. (ASW Testimony)
6. The Appellant's son/chore provider canceled the ██████████ appointment because of his work schedule and instead brought the Appellant and her spouse to the local office for the review ██████████. (Exhibit 1, page 7)
7. As a result of the information gathered at the time of the assessment, the ASW determined that the Appellant was no longer eligible for Home Help Services because the Appellant appeared capable of meeting her own daily needs and her spouse is able to assist as her responsible relative. (Exhibit 1, pages 4-6)
8. On ██████████, the Department issued an Advance Negative Action Notice to the Appellant that her Home Help Services case would terminate, effective ██████████. (Exhibit 1, pages 4-6)
9. The Appellant requested a formal, administrative hearing ██████████. (Exhibit 1, page 3)

### **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.

Adult Services Manual (ASM 363) 9-1-2008, pages 2-5 of 24 addresses the issue of assessment:

### **COMPREHENSIVE ASSESSMENT**

The Adult Services Comprehensive Assessment (FIA-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 client in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client'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 department 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 client'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.

### **IADL Maximum Allowable Hours**

There are monthly maximum hour limits on all IADLs except medication. The limits are as follows:

- 5 hours/month for shopping
- 6 hours/month for light housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

These are maximums; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

### **Service Plan Development**

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

- The specific services to be provided, by whom and at what cost.
- The extent to which the client does not perform activities essential to caring for self. The intent of the Home Help program is to assist individuals to function as independently as possible. It is important to work with the recipient and the provider in developing a plan to achieve this goal.
- The kinds and amounts of activities required for the client's maintenance and functioning in the living environment.
- The availability or ability of a responsible relative or legal dependent of the client to perform the tasks the client does not perform. Authorize HHS **only** for those services or times which the responsible relative/legal dependent is unavailable or unable to provide.

**Note: Unavailable** means absence from the home, for employment or other legitimate reasons. **Unable** means the responsible person has disabilities of his/her own which prevent caregiving. These disabilities must be documented/verified by a medical professional on the DHS-54A.

- 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).

### **Services not Covered by Home Help Services**

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2);
- Services provided for the benefit of others;
- Services for which a responsible relative is able and available to provide;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;
- Medical services;
- Home delivered meals;
- Adult day care.

Adult Services Manual (ASM 363) 9-1-2008,  
Pages 2-15 of 24

On ██████████, the Adult Services Worker (ASW) completed a review assessment for redetermination in accordance with Department policy. The case had been transferred to this ASW due to the Appellant's recent move to ██████████. (Exhibit 1, page 7) The ASW testified that during review she learned that both the Appellant and her spouse have valid driver's licenses and are able to drive daily. The ASW's case notes show it was reported that the Appellant's husband can assist her with bathing and ADLs, a daughter sometimes does the laundry, and the Appellant and her husband shop for themselves when they go out to the doctor or to run errands. It was also reported that the Appellant's spouse can do light housework and heat meals but that the Appellant's son sometimes monitors him. The ASW observed the Appellant walking unassisted and using both hands without difficulty. (Exhibit 1, page 7) Accordingly, the ASW determined that the Appellant no longer qualified for Home Help Services payments because the Appellant appeared capable of meeting her own daily

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needs and her spouse is able to assist as her responsible relative. (Exhibit 1, pages 4-6)

The Appellant disagrees with the determination and testified that her husband can not help her because he is █████ years old and is sick too. The Appellant stated that she has pain in her knees, gets dizzy, and has high blood pressure. The Appellant's son testified that his parents can not care for themselves. He stated that the Appellant's husband has had four surgeries in the last year and that his mother takes many medications, has a bad knee, and can not bend or walk much. He explained that the Appellant and her spouse only drive short distances, about one mile, and do not go to the store to shop.

The Department properly considered the availability and ability of the Appellant's husband to provide care for the Appellant. The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. Adult Services Glossary (ASG Glossary) 12-1-2007, Page 5 of 6. The Appellant's husband meets the definition of a responsible relative. Under Department policy, Home Help Services for the Appellant could only be authorized for those services or times which the responsible relative is unavailable or unable to provide. The policy notes that unavailable means absence from the home, for employment or other legitimate reasons. Unable means the responsible person has disabilities of his/her own which prevent care giving. These disabilities must be documented/verified by a medical professional on the DHS-54A (Medical Needs form). Adult Services Manual (ASM 363) 9-1-2008, Page 5 of 24. The Appellant's husband lives in the home and there is no documentation that he is disabled. The ASW testified that no medical documentation was received at the ██████████, review, and the DHS-54A that was mailed out came back address unknown.

Based on the information available to the Department at the time of the re-determination, eligibility for continuing Home Help Services not supported. The Department did not have any documentation that the Appellant's husband, who lives in the home, was disabled or otherwise unavailable to assist the Appellant. Additionally, the statements made to the ASW at the ██████████, review appointment indicated that the Appellant's son was not providing assistance with ADL's or IADL's to the Appellant herself. Rather, that the Appellant's husband provided assistance with ADL's, a daughter occasionally did laundry, and that the Appellant and her spouse drive to doctor appointments and run errands, including shopping. The only report of assistance that the Appellant's son provides himself was taking the Appellant and her husband out for lunch or dinner and sometimes monitoring the Appellant's husband. (Exhibit 1, page 7) The Home Help Services program does not compensate for taking a person out for meals or monitoring a spouse. The program can only compensate an enrolled chore provider for hands on assistance, functional ranking level 3 or greater, they provide with the specific ADL's and IADL's listed in the policy. Further, the Home Help Service program can not issue payment when there is a responsible relative in the home available and able to provide the needed assistance. The Appellant may always

  
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reapply for Home Help Services and provide medical documentation that her husband is not able to assist her.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly terminated home help assistance payments for the Appellant based on the information available at the time of the re-assessment.

**IT IS THEREFORE ORDERED** that:

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

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Colleen Lack  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc:



Date Mailed: 12/7/2010

**\*\*\* 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.