

worker determined the Appellant's condition was not severe enough to warrant Home Help Services and therefore denied eligibility for this program.

5. The Department sent Notice of the denial on ██████████. (Department Exhibit 1, pages 4-7)
6. The Appellant requested a formal, administrative hearing ██████████. (Department 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 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 private or public agencies.

Adult Services Manual (ASM 363, 9-1-08), 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.

floor and changing the sheets on the bed. The worker stated that the housework in the kitchen would be considered heavy housework and the home help services program only covers light housework. The worker testified that the Appellant stated her son stays in her home on the weekends and other family members are in the area. The worker stated he felt that the Appellant's family could assist with changing the sheets on the bed. Based on his observations and the information the worker was provided by the Appellant at the time of the assessment; the worker denied HHS authorization because the Appellant's circumstances did not warrant eligibility for Home Help Services payments.

The Appellant disagrees with the Department's determination and testified that she was not requesting heavy housework such as stripping the kitchen floor, just normal sweeping/mopping. Under Department policy, housework does include sweeping, vacuuming and washing floors. Adult Services Manual (ASM 365) 10-1-1999, Page 2 of 2. The Appellant stated she is unable to mop or sweep and has hired someone to do this for her twice a month since [REDACTED]. The Appellant explained that she also has a hard time changing the bed sheets because of the way she has to half lean/bend over. The Appellant stated that she changes the sheets about twice a month. The Appellant also testified she has some problems with doing the dishes, shopping, and laundry.

The Appellant also testified that her son only spends the nights there on weekends. The Appellant explained that her son works as a live in caregiver at an adult foster care facility 5 days a week. The Appellant stated that her son does not stay around the home during the days on the weekends and that she does not have other family members who come by to assist her on a weekly basis.

The Department worker properly considered the availability of others in the home, her son, to provide the Appellant assistance with these activities. Under Department policy, the Appellant's son would be considered unavailable to assist during the week while he is working and required to stay at the Adult Foster Care facility. However, he would be considered available on the weekends when he is not working. Adult Services Manual (ASM 363) 9-1-2008, Page 5 of 24. The Appellant testified that the activities she needs assistance with are only done about twice a month.

The Appellant has the burden of proving, by a preponderance of evidence, that the Department did not properly deny her home help services application. The Appellant did not meet that burden.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied HHS program eligibility based on the workers observations and the information he was provided at the time of the assessment.

IT IS THEREFORE ORDERED that:

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

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

CC:



Date Mailed: 1/8/2010

***** 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.