

**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. 2011-11706 HHS  
Case No. 99124511

██████████  
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 ██████████. The Appellant appeared without representation. Her witness was her ██████████. ██████████, represented the Department. Her witnesses were ██████████ and ██████████.

**PRELIMINARY MATTER**

The admission of Appellant's Exhibit #2 was taken under advisement at hearing. On FAX presentation and review the exhibit was admitted, but afforded little weight as the ALJ was unable to determine when the Appellant received the envelope with her correct address from the ██████████.

**ISSUE**

Did the Department properly terminate 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) The Appellant is ██████████ Medicaid beneficiary. (Appellant's Exhibit #1)
- 2) The Appellant alleges temporary disability in the form of back pain: lumbar disc displacement. (Department's Exhibit A, p. 11)
- 3) The Appellant testified that she was denied program placement because the ASW could not find her house. (See Testimony of Appellant and Appellant's Exhibit #1)
- 4) The Appellant and her witness said that the mailbox address was obscured for "██████████." (See Testimony of ██████████)

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- 5) The Department witness [REDACTED] testified that when he arrived for the face to face, in-home assessment there was no physical structure. (See Testimony of [REDACTED] and Department Exhibit A, p. 10)
- 6) The Department provided documentary evidence supporting [REDACTED] testimony by way of returned U.S. Mail; "return to sender not deliverable..." (Department's Exhibit A, p. 10)
- 7) On [REDACTED], the ASW sent the Appellant an Advance Negative Action Notice (DHS1212) advising her that her request for Home Help Services would be terminated because of the impossibility of conducting an in-home assessment. (Department's Exhibit A, pp. 4, 5, 7)
- 8) The request for hearing on the instant appeal was received by the State Office of Administrative Hearings and Rules on [REDACTED]. (Appellant's Exhibit #1)

**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 medical professional.

**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 23, 9-1-2008.

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The Department witness testified that following notice he attempted to conduct an in-home assessment of the Appellant for purposes of evaluating her application for Home Help Services. He was unable to locate her residence for lack of an address.

The Appellant testified that she was home but no one appeared at her residence which does exist. Her witness said that the mailbox number was obscured for [REDACTED] before it was repaired.

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On review by the Appellant's own testimony the location of her residence was prevented by an obscured address on a defective mail box. Absent criminal mischief - no police report was filed - the failure to conduct the in-home assessment as required under policy was not the fault of the Department or its [REDACTED].

It is the province of the ASW to determine eligibility for services; the ASM requires an in-home assessment of the prospective HHS recipients. It is fundamental that someone requesting Home Help have an address to which the ASW can respond for an in-person, in-home assessment.

The Appellant failed to preponderate her burden of proof that the Department erred in terminating her application for HHS for lack of an in-home assessment.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.

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Dale Malewska  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 2/24/2011

**\*\*\* 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.