

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

Docket No. 2011-13010 HHS  
Case No. 29515410

██████████  
Appellant  
\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge 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 ██████████. ██████████, appeared on the Appellant's behalf. ██████████ represented the Department. ██████████, and ██████████, appeared as witnesses for the Department.

**ISSUE**

Did the Department assess the Appellant's Home Help Services (HHS) case?

**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.
2. The Appellant has been diagnosed with diabetes mellitus, high blood pressure, schizophrenia, bipolar disorder, arthritis, and a bad back. (Exhibit 1, page 9)
3. In ██████████, the Adult Service Worker assigned to the Appellant's case was on a medical leave.
4. On ██████████, ██████████, made a visit to the Appellant's home to conduct a Home Help Services assessment filling in for the assigned Adult Services Worker. (Exhibit 1, page 5 and ██████████ Testimony)
5. As a result of the information gathered from the assessment, ██████████ determined that the Appellant's HHS hours should continue at the same level. (██████████ Testimony)

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6. On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that his Home Help Services payments would be terminated effective [REDACTED], for failure to submit provider logs. (Exhibit 1, pages 3-4)
7. On [REDACTED], the State Office of Administrative Hearings and Rules received the Request for Hearing filed on the Appellant's behalf contesting the termination and the HHS hours authorized for meal preparation. (Exhibit 1, page 3)
8. The provider logs were submitted to the Department and the Appellant's HHS payments have continued. ([REDACTED] Testimony and Exhibit 1, page 6)
9. There is no remaining issue regarding the termination action rescinded by the Department. ([REDACTED] Testimony)

**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.
- 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.
- 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:

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- 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*

In ██████████, the Adult Services Worker assigned to the Appellant's case was out on medical leave. On ██████████, ██████████ filled in for the regularly assigned Adult Services Worker and completed a home visit as part of a comprehensive assessment of the Appellant's case. As a result of the assessment, ██████████ determined that no changes should be made to the Appellant's HHS case. The Appellant's HHS hours continued as previously authorized by the regularly assigned Adult Services Worker. The Appellant's ranking remained at level 3 for meal preparation and the HHS hours authorized for this activity remained at 5 hours and 10 minutes per month. (Exhibit 1, pages 8 and 10) ██████████ testified that he was aware of the Appellant's diabetes diagnosis and need to have four meals per day to maintain his blood sugar.

The Appellant's HHS provider testified that the Appellant calls her requesting additional meal preparation services. She explained that she can not go back over there to prepare all of the Appellant's meals. The Appellant's representative testified that she provides the authorized services to the Appellant six days per week, including preparing meals that he can warm up and will last several days. She stated that the Appellant is able to make a sandwich for himself but usually goes to the clubhouse for lunch and heats pre-packaged frozen breakfast foods or has cereal for breakfast. (██████████ Testimony)

The Appellant's representative also believes the Appellant does not receive enough in food stamps and testified she provides additional foods for him from her church. This ALJ does not have jurisdiction over the Appellant's food stamps case. The Appellant

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can file a separate hearing request with the Department of Human Services regarding his food stamp allotment.

Based on the testimony of the Appellant's HHS provider, the ranking at level 3 and HHS hours authorized for meal preparation were appropriate under the Department policy. Department policy allows for a maximum of 25 hours for meal preparation each month. However, the Appellant is not totally dependant on others for this activity, rather he only requires some assistance from his HHS chore provider for some of his meals. The Appellant can reheat meals prepared by his HHS provider and is able to have two meals, breakfast and lunch, without assistance from his chore provider. (Testimony) Accordingly, the Department's determination to continue HHS payments at the same level is upheld.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly assessed the Appellant's HHS case.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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Colleen Lack  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:



Date Mailed: 3/18/2011

**\*\*\* NOTICE \*\*\***

The State Office of Administrative Hearings and Rules March 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 March 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.