

**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:

██████████

Appellant

_____ /

Docket No. 2011-18804 HHS
Case No. 6913678

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 her own behalf. ██████████ represented the Department. ██████████, and ██████████, appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce 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. Appellant is ██████████ woman. (Exhibit 1).
2. Appellant is a Medicaid beneficiary.
3. Appellant has medical diagnoses of osteoarthritis and lumbar degenerative disc disease. (Exhibit 1, Page 10; Exhibit 2).
4. On ██████████, an ASW conducted a reassessment of Appellant's need for HHS with Appellant present in Appellant's home. During the reassessment the ASW asked questions and received answers from the Appellant.
5. During the ██████████, reassessment the ASW observed the Appellant on her own caring for her ██████████ an infant. The ASW observed the Appellant pick up the crawling infant from the ground and hold him. The ASW observed the Appellant holding the infant and coddling him to stop him from fussing. Based on the Appellant's functional abilities during the

reassessment the ASW determined that the Appellant did not need assistance with dressing, taking medications and transferring. (Exhibit 1, page 11).

6. During the reassessment the Appellant informed the ASW that her ██████████ lived with her and she administered her ██████████ medications. Based on information provided by the Appellant the ASW determined the Appellant no longer needed assistance with taking medications because if the Appellant could administer medications for her ██████████ she was able to administer them for herself.
7. During the reassessment the Appellant informed the ASW that her ██████████ lived with her while his parents were incarcerated. The ASW prorated the Appellant's tasks for housework, shopping, laundry, and meal preparation by half. (Exhibit 1, Page 11).
8. Because the ASW determined the Appellant did not have a need for some HHS services the time and tasks for dressing, taking medications and transferring were removed from Appellant's HHS payment authorization. (Exhibit 1, Pages 6-8).
9. On ██████████ the Department sent an Advance Negative Action Notice notifying Appellant that Home Help Services payments would be reduced from \$██████████ to an amount of \$██████████. The reduction was due to dressing, taking medications and transferring being removed from authorization because they were no longer needed, and proration of housework, shopping, laundry, and meal preparation by half. (Exhibit 1, Pages 6-8).
10. On ██████████, the State Office of Administrative Hearings and Rules received Appellant's Request for Hearing. (Exhibit 1, Pages 3-4).

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 agencies.

The ASW testified that a comprehensive assessment was completed on ██████████ at which the Appellant was asked questions and for which Appellant provided answers. Adult Services Manual (ASM 363, 9-1-08), pages 2-4 of 24, addresses the issue of assessment:

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 her/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 redetermination.
- 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 for food and other necessities of daily living
- Laundry
- 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 April only be reduced for needs assessed at the three (3) level or greater.

Time and Task

The worker will allocate time for each task assessed a rank of three (3) or higher, based on interviews with the customer and provider, observation of the customer's abilities and use of the reastepsonable 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:

- Five (5) hours/month for shopping .
- Six (6) hours/month for light housework.
- Seven (7) hours/month for laundry.
- 25 hours/month for meal preparation

These are **maximums**; as always, if the customer needs fewer hours, that is what must be reduced. Hours should continue to be prorated in shared living arrangements. (Underline added by ALJ).

Removal of dressing, taking medications and transferring –

The ASW testified that during the reassessment the Appellant told the ASW, or the ASW observed, that the Appellant did not need assistance with dressing, taking medications and transferring. During the reassessment the ASW observed the Appellant on her own caring for her ██████████ an infant. The ASW observed the Appellant pick up the crawling infant from the ground and hold him. The ASW observed the Appellant holding the infant and coddling him to stop him from fussing. (Exhibit 1, page 11).

The ASW explained that she observed the Appellant getting up from a seated position, picking up a baby, and walking around the house, and therefore observed no need for assistance with transferring.

The ASW explained that because she observed the Appellant getting up from a seated position, picking up a baby and walking around the house, the Appellant would have no need for assistance in dressing; the Appellant could put on her own shirt or pants.

During the assessment the Appellant informed the ASW that her ██████████ lived with her and she administered her ██████████ medications. Based on information provided by the Appellant the ASW determined the Appellant no longer needed assistance with taking medications because if the Appellant could administer medications for her ██████████ she was able to administer them for herself.

The Appellant testified that she was not babysitting her ██████████ on the day of the reassessment, she was merely watching him while his ██████████ was out taking care of paperwork. Because the ASW determined the Appellant did not need assistance with dressing, taking medications and transferring, the time and tasks for those HHS services were removed from Appellant's HHS payment authorization. (Exhibit 1, Pages 6-8).

██████████
Docket No. 2011-18804 HHS
Decision and Order

The weight of credible evidence of record demonstrates the Department properly removed the Appellant's time and tasks for dressing, taking medications, and transferring.

IADL of Housework, Laundry, Shopping and Meal Preparation prorated -

The ASW testified that during the ██████████, comprehensive assessment the Appellant informed her and she observed that at least one other person was living in her home; her ██████████. Adult Services Manual (ASM 363 9-1-08), page 5 of 24 requires a DHS worker to address:

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 customer 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.
(Underline added by ALJ).

As stated above in Department policy, the DHS **must** divide the number of authorized hours for IADLs by the number of people in the household. At the ██████████ assessment the ASW discovered that the Appellant's IADL time authorization for housework, laundry, shopping, and meal preparation had not been prorated for the fact there were others living in the home. The DHS worker testified that according to policy she was required to prorate the IADL time authorization to reflect others lived in the home.


The Appellant testified that at the time of the hearing there were five people living in the home, her ██████████, her ██████████ and her ██████████. The Appellant further testified that as of the date of the hearing she was the only person living in the home. Because there were others living in Appellant's home at the time of the assessment of the DHS worker was mandated to prorate the IADL time authorization for housework, laundry, shopping, and meal preparation and did so properly.

Summary -

The Appellant bears the burden of proving by a preponderance of evidence that the Department's reduction was not proper. The Appellant did not provide a preponderance of evidence that the Department's reduction was not proper. The Department must implement the Home Help Services program in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced Appellant's Home Help Services.


Docket No. 2011-18804 HHS
Decision and Order

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
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 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.