

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2011-25235 HHS
Case No. [REDACTED]

[REDACTED],
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 [REDACTED]. The Appellant appeared without representation. Her witness was her chore provider, [REDACTED]. [REDACTED] represented the Department. Her witness was [REDACTED], ASW.

ISSUE

Did the Department properly reduce home help services (HHS) owing to a shared household?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. At the time of hearing the Appellant is a [REDACTED], disabled, Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with seizures and uncontrolled asthma. She is post meningitis and stroke. She is unable to walk. (Department's Exhibit A, p. 4)
3. On [REDACTED] the ASW [REDACTED] conducted a six-month reassessment for the Appellant that led to a reduction in services owing to the discovery of a shared household. (Department's Exhibit A, pp. 2, 5)
4. The Appellant admitted that her choreprovider had moved in – but only temporarily, having returned to his residence on [REDACTED]. See Testimony.
5. The Appellant also admitted that she had a tenant during the same time period who rented a room – but used no common area or kitchen. See Testimony.

6. On ██████████, the negative action notice was sent to the Appellant advising her of the proposed reduction to be effective ██████████. (Department's Exhibit A, pp. 2, 5)
7. The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on ██████████. (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 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.

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.

Adult Service Manual (ASM), §363, pp. 2, 3 of 24, 9-1-2008.

Service Plan Development

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

- 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).

(Emphasis supplied) *Supra*, p. 5 of 24.

The Department witness, ██████████ testified that on in-home assessment the evidence showed that the Appellant was living in a shared household with her choreprovider, ██████████. She said

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that shared household policy for IADL was applied with the resulting reduction in benefits for shopping, housework, laundry and meal preparation – by half.

The Appellant testified that she understood the policy – but that the shared household arrangement was only temporary. She said that choreprovider [REDACTED] owned his own home and had returned there on or about [REDACTED]. [REDACTED] agreed with the Appellant's version of events and the Department did not pursue that issue on cross examination. Accordingly, the Appellant established that on reassessment she does not live in a shared household.

On review of the testimony and the evidence the Administrative Law Judge finds that the assessment and application of proration policy was accurate and proper when applied. In fact the ASW could have reduced the IADL even further as the proofs suggested that up to three (3) adults were living in the home at one time. The Appellant had not preponderated her burden of proof that the Department erred in the application of shared household proration policy.

The following indicates the application of proration to the Appellant's IADLs and the ALJ's agreement:

- Housework was prorated by half.
- Laundry was prorated by half
- Shopping was prorated by half.
- Meal preparation was prorated by half.

An assessment and the application of proration policy is the responsibility of the ASW. Based on the information presented at hearing I found the proration policy to be correctly applied.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

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

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cc:



Date Mailed: 6/2/2011

***** NOTICE *****

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.