

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

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IN THE MATTER OF:

██████████,

Appellant.

\_\_\_\_\_ /

Docket No. 2011-32597 HHS

Case No. ██████████

**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 ██████████. Appellant appeared on his own behalf. ██████████, Appellant's chore provider and roommate, also testified on his behalf. ██████████ represented the Department of Community Health. ██████████, Appellant's Adult Services Worker (ASW) at the ██████████ DHS ██████████ Office, appeared as a witness for the Department.

**ISSUE**

Did the Department properly reduce Home Help Services (HHS) payments to Appellant?

**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 a ██████ year-old Medicaid beneficiary.
2. Appellant has been diagnosed with arthritis, ataxia, hepatitis c, and a knee replacement. (Exhibit 1, page 9).
3. Appellant has been receiving HHS for assistance with bathing, mobility, housework, laundry, shopping and errands, and meal preparation/cleanup, with a monthly care cost of ██████████. (Exhibit 1, pages 11-13; Testimony of ASW ██████████).
4. On ██████████, ASW ██████████ conducted a home visit as part of the annual review of Appellant's case. (Exhibit 1, pages 5-7; Testimony of

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ASW ██████████).

5. During that home visit, ASW ██████████ learned that Appellant's chore provider was also his roommate. (Testimony of ASW ██████████).
6. Based on that information provided by Appellant, ASW ██████████ decided to prorate and reduce by one-half the HHS hours authorized for laundry, housework, meal preparation/cleanup, and shopping. The HHS time for bathing and mobility would remain the same. (Testimony of ASW ██████████).
7. The reduction would result in a total of 36 hours and 37 minutes of HHS per month, with a monthly care cost of ██████████. (Exhibit 1, pages 11).
8. On ██████████, the Department sent Appellant an Advance Negative Action Notice notifying Appellant that her HHS would be reduced due to its proration policy. (Exhibit 1, pages 5-7).
9. Despite that notice, the reduction in payments was never made. (Testimony of ASW ██████████).
10. ASW ██████████ discovered that the reduction had never been made while conducting her six-month review of Appellant's case file. (Testimony of ASW ██████████).
11. On ██████████, the Department sent Appellant another Advance Negative Action Notice notifying Appellant that her HHS would be reduced due to its proration policy. The effective date of the action was ██████████ (Exhibit 1, pages 5-7).
12. On ██████████, the Department received Appellant's Request for Hearing. (Exhibit 1, page 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.

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Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") addresses the issue of proration of IADL services:

**IADL Maximum Allowable Hours**

There are monthly maximum hour limits on all IADLs except medication.

The limits are as follows:

- Five hours/month for shopping.
- Six hours/month for light housework.
- Seven 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 authorized. Hours should continue to be prorated in shared living arrangements.

(ASW 363, pages 3-4 of 24 (underline added by ALJ))

**Service Plan Development**

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


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- 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.

(ASM 363, pages 4-5 of 24)

The undisputed evidence in this case establishes that the Appellant was living with his provider in a shared living arrangement. Therefore, the Department was bound to follow the mandated policy and prorate the HHS time and payment for any IADLs by at least 1/2.

The Department did prorate HHS for housework, laundry, shopping, and meal preparation/cleanup by one-half and that decision must be sustained as ASM 363 does not provide for any exceptions. To the extent the Department failed to follow the proration, it was generous in favor of the Appellant policy by not immediately implementing the reduction. Appellant can point to no error that harmed him and the Department's decision to prorate is sustained.

  
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**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.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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Steven Kibit  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc: 

Date Mailed: 7/11/2011

**\*\*\* 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.