

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

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IN THE MATTER OF:

Docket No. 2011-34654 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]. Appellant appeared on his own behalf. [REDACTED], Appellant's mother, also testified on his behalf. [REDACTED], Appeals Review Officer, represented the Department of Community Health. [REDACTED], Adult Services Supervisor, and [REDACTED], Independent Living Services (ILS) Specialist, from the [REDACTED] DHS [REDACTED] Office appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's application for 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 a [REDACTED] year-old Medicaid beneficiary.
2. Appellant has been diagnosed by a physician with epilepsy and tuberous sclerosis. (Exhibit 1, page 9).
3. In [REDACTED], Appellant applied for HHS. (Exhibit 1, pages 5-7).
4. On [REDACTED], ILS Specialist [REDACTED] conducted a home visit and comprehensive assessment as part of the application process. (Exhibit 1, page 8).
5. During that home visit, ILS Specialist [REDACTED] learned that, while Appellant is sometimes incapacitated following Appellant's seizures, Appellant is otherwise independent and can take care of himself. (Testimony of Appellant; Testimony of [REDACTED]).

6. At the time of the home visit, Appellant was suffering from one to two seizures a month. Now, he can have up to four seizures a month. (Testimony of Appellant).
7. The seizures usually occur while Appellant is sleeping. (Testimony of Appellant).
8. His recovery time following seizures varies and often depends on whether he suffered any physical injuries during his seizure. (Testimony of Appellant).
9. Based on the information obtained during the home visit, ILS Specialist ██████████ determined that Appellant did not meet the criteria for HHS. (Testimony of ██████████).
10. On ██████████, ILS Specialist ██████████ issued an Adequate Negative Action Notice to Appellant indicating that Appellant's application for HHS was denied. (Exhibit 1, pages 5-7).
11. 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 private or public agencies.

Adult Services Manual 361 (6-1-07) (hereinafter "ASM 361") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the issues of what services are included in Home Help Services and how such services are assessed:

Home Help Payment Services

Home help services (HHS, or personal care services) are non-specialized personal care service activities provided under ILS to persons who meet eligibility requirements.

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.

Personal care services which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

(ASM 361, page 2 of 5)

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 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:

- 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 client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

(ASM 363, pages 2-4 of 24)

Services not Covered by Home Help Services

Do **not** authorize HHS payment for the following:

- 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.

(ASM 363, pages 14-15 of 24)

As described in the above policies, HHS are non-specialized personal care services provided to functionally limited individuals in order for them to live independently and receive care in their homes. Specific services include numerous activities of daily living and instrumental activities of daily living. Here, it is undisputed that Appellant usually does not need any assistance or any such personal care services. Accordingly, he is not eligible for HHS.

Appellant would like some assistance following a seizure, but there is no way of knowing when such assistance would be required or how much would be needed. By policy, HHS services must be authorized for a specific type of service, period of time and payment amount. ASM 363, pages 19-20 of 24. In this case, it would be impossible to allocate specific times for services or the specific tasks a provider would perform.

Appellant also testified that he primarily wants someone to watch him while he is sleeping and to help him if he suffers a seizure while he is sleeping. (Testimony of Appellant). However, as expressly stated in policy, HHS payments do not include payments for supervising or monitoring. ASM 363, pages 14-15 of 24.

For the reasons discussed above, this Administrative Law Judge finds that Appellant does not meet the criteria for HHS and it would be impossible to calculate the times and content of any services that would be covered by HHS. Therefore, the Department's decision is sustained.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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

cc:

Date Mailed: 8/1/2011

***** 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.



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