

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

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2011-46610 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 ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker, appeared as a witness for the Department.

ISSUE

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

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 a ██████ year-old Medicaid beneficiary.
2. The Appellant is legally blind. (Exhibit 1, page 11)
3. On ██████████, an Adult Services Worker (ASW) made a visit to the Appellant's home to conduct a Home Help Services assessment. (Exhibit 1, pages 8-9)
4. DHS policy requires tasks of housework, laundry, meal preparation and shopping to be prorated in a shared household. (Adult Services Manual (ASM) 363, 9-1-2008, pages 4-5 of 24)

5. At the time of the home visit, the Appellant's son and daughter lived with her. (Uncontested)
6. On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that her Home Help Services case would be reduced to [REDACTED] per month effective [REDACTED], reflecting proration of the HHS hours for housekeeping and meal preparation based on the shared household. (Exhibit 1, pages 5-7)
7. On [REDACTED], the Appellant's Request for Hearing was received. (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 (ASM 363, 9-1-08), pages 2-15 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. When hours exceed the RTS rationale must be provided.

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.

Note: Unavailable means absence from the home, for employment or other legitimate reasons. **Unable** means the responsible person has disabilities of his/her own which prevent caregiving. These disabilities must be documented/verified by a medical professional on the DHS-54-A.

- 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:

- 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*

The Adult Services Worker (ASW) completed a home visit as part of a comprehensive assessment on ██████████. (Exhibit 1, pages 8-9) At the time of the assessment, the Appellant's son and daughter lived with her. (Uncontested) The ASW's home visit note and Advance Negative Action Notice indicated that the Appellant's children were teenagers. (Exhibit 1, pages 6 and 9) The ASW testified that the Appellant's daughter is ██████ and her son is ██████. (ASW Testimony) The ASW reduced the HHS hours for housework and meal preparation in accordance with the Department's policy on shared households. (ASW Testimony and Exhibit 1, pages 5-7)

The Appellant disagrees with the reductions and testified that she did not understand this reduction as there was no change in her household composition. She testified that her █████ year old son has since moved out, but was rarely home when he lived there because he was at work or his girlfriend's home. The Appellant stated her █████ year old daughter sleeps in the home, but otherwise is rarely there as she is out with friends or looking for work. The Appellant does not get along very well with her daughter. The Appellant testified that her daughter does not share meals with her. (Appellant Testimony)

The policy implemented by the Department recognizes that in most cases, certain tasks are performed that benefit all members who reside in the home together, such as cleaning, laundry, shopping and meal preparation. Normally, it is appropriate to pro-rate the payment for those tasks in a shared household, as the Appellant's children would still have to clean their own home, make meals, shop and do laundry for themselves if they did not reside with the Appellant. The HHS program will not compensate for tasks that benefit other members of a shared household. Accordingly, the authorized hours for these activities must be prorated under Department policy. Exceptions can be made when there is justification for performing an activity separately, such as incontinence. In this case, the Department only prorated the HHS hours for housework and meal preparation. (Exhibit 1, pages 12-13)

Department policy allows for a maximum of 6 hours per month for housework, 5 hours per month for shopping, 7 hours per month for laundry and 25 hours per month for meal preparation. The Department ranked the Appellant at level 5 for each of these activities, indicating she is dependant on others for these activities. (Exhibit 1, page 15) At the time of the ██████████, home visit, the Appellant's son and daughter lived with the Appellant. After proration for the shared household, the Department authorized 3 hours and 1 minute per month for housework, 7 hours and 1 minute per month for laundry, 5 hours and 1 minute per month for shopping, and 12 hours and 32 minutes per month for meal preparation. (Exhibit 1, page 13) It is not clear why the Department has exempted laundry and shopping from the proration policy and only adjusted the HHS hours for housework and meal preparation based on the shared household. While this ALJ found the Appellant's testimony credible that the Appellant's children were often out of the home and did not share meals with her, there was no evidence of a special diet or other reason that the Appellant's meals must be prepared separately. Similarly, there was no evidence of housekeeping activities that are done for only the Appellant's benefit. Accordingly, the ASW properly prorated the HHS hours for these activities in accordance with the Department's policy. The reductions to the HHS hours for housework and meal preparation are sustained as they are reflective of the Appellant's rankings and household composition.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

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

cc:

[REDACTED]

Date Mailed: 10/20/2011

***** 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.