STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted],

Docket No. 2011-50387 HHS
Case No. [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's son and provider, appeared on the Appellant's behalf. The Appellant was present and testified. [redacted], Appeals Review Officer, represented the Department. [redacted], Adult Services Worker, appeared as a witness for the Department.

ISSUE

Did the Department properly determine the Appellant's medical need for Home Help Services (HHS) and properly suspend the Appellant's 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 [redacted] year-old Medicaid beneficiary.

2. The Appellant has a history of COPD, Rheumatoid Arthritis, Bi Polar Disorder and Osteoarthritis in her lower extremities. (Exhibit 1, page 23)

3. On [redacted], the Department of Human Services McCree Unit received a 54-A completed by the Appellant's physician, [redacted] certified that the Appellant had a medical need for HHS. (Exhibit 1, page 21)

4. On [redacted], Adult Services Worker went to the Appellant's Flint, MI home to complete a HHS in home assessment. (Exhibit 1, page 18)

5. During the [redacted], assessment the Appellant was able to ambulate and stand and sit unassisted. At the time of the assessment the Appellant was not using a cane or walker and was not wearing a knee brace.

6. The Appellant's son, [redacted] is the Appellant's HHS provider. As of [redacted], neither the Appellant nor her son had submitted all HHS provider logs.

7. The Appellant's Adult Services Worker, [redacted], determined that the Appellant had a medical need for housework, laundry and shopping or [redacted] per month of HHS.

8. On [redacted], the Department sent the Appellant an Advance Action Notice in which it indicated that effective [redacted], the Appellant's HHS would be reduced and effective [redacted], HHS would be suspended. The suspension was based on the Appellant's failure to submit provider logs.

9. On [redacted], the Michigan Administrative Hearing System received the Appellant's request for hearing.

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.

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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).

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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 Appellant is a [redacted] year-old Medicaid beneficiary with a history of COPD, Rheumatoid Arthritis, Bi Polar Disorder and Osteoarthritis in her lower extremities. She

resides in her [redacted] home with her daughter and her son. The Appellant's son is the Appellant's HHS provider. On [redacted], [redacted] went to the Appellant's home to complete a comprehensive in home face to face assessment. The Appellant and her son testified that on [redacted], an Adult Service Worker was at the Appellant's home but denied that it was [redacted]. The testimony of the Appellant and her son was internally inconsistent and vague. Both recalled specific information about the incident, including statements made by [redacted], but then denied that [redacted] was present in the home. [redacted] credibly testified that she was present in the Appellant's home on [redacted], and completed the assessment. The Appellant and her son's testimony was inconsistent and vague and not credible regarding the identity of the Adult Services Worker who completed the HHS assessment.

[redacted] credibility testified that the Appellant walked from her bedroom unassisted and then sat unassisted on a stool. The Appellant told [redacted] that the Appellant needs assistance with getting in and out of the bathtub but provided no information which indicated she required assistance with toileting. The Appellant also told [redacted] that she needed assistance with preparing her meals and with laundry. The Appellant told [redacted] that the Appellant's physician wanted the Appellant to wear a knee brace and participate in physical therapy but the Appellant did neither.

[redacted] testified that following her in home face to face assessment of the Appellant [redacted] determined that the Appellant had a medical need for HHS at rank of 3 or higher for housework, laundry, and shopping for food and medications. [redacted] also determined that the Appellant had not submitted all necessary provider logs. Subsequently, [redacted] on [redacted], sent the Appellant an Advanced Action Notice in which it indicated that effective [redacted], the Appellant's HHS would be reduced and effective [redacted], HHS would be suspended.

The Appellant and her son testified that the Appellant requires more HHS than the amount found by [redacted]. The Appellant and her son testified that the Appellant due to her physical limitations requires assistance with mobility, bathing, and dressing. The Appellant testified that subsequent to the [redacted], assessment she obtained a walker and is now participating in physical therapy. The Appellant and her son testified that the Adult Service Worker at their home did not credibly report her observations and incorrectly concluded that the Appellant had no need for mobility, toileting, dressing, or bathing.

I find based on the Appellant's diagnosed physical condition, and [redacted] observations, that [redacted], assessment properly determined that the Appellant had a medical need for hands on assistance with housework, laundry and shopping. [redacted] properly found that the Appellant's HHS should be reduced to [redacted] per month.

I also find that as of [redacted], neither the Appellant nor her provider, (her son), had submitted all necessary HHS provider logs to the Department. The Appellant's son indicated that subsequent to the Advance Action Notice he had submitted some

provider logs. [redacted] confirmed that the Appellant had submitted some provider logs but all necessary logs had not been submitted as of the hearing date. Given this information a suspension of the Appellant's HHS payments was proper.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 10/13/2011

***** 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.