

**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:

██████████,

Appellant

Docket No. 2011-52738 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's daughter and provider, appeared and testified. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker Supervisor, appeared as a witness for the Department.

ISSUE

Did the Department properly determine that the Appellant was ineligible for 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 who resides in her ██████ home with her husband and three children.
2. The Appellant has been diagnosed with Hypertension, Asthma, Congestive Heart Failure, OSA, Enlarged heart, Diabetes and Sleep Apnea.
3. The Appellant was receiving Home Help Services (HHS) for assistance with housework, laundry, shopping, and meal preparation. The Appellant's daughter is her approved HHS provider.
4. On ██████████, the Appellant's Adult Services Worker, ██████████ sent the Appellant an Advance Action Notice which informed the Appellant that effective ██████████, the Appellant's HHS would be suspended due to the Appellant's failure to provide a DHS 54-A Medical Needs form for her spouse, ██████████.

5. On ██████████, 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 2-5 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.

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.
- 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 evidence presented shows that the Appellant was approved for ██████████ per month of HHS for housework, laundry, shopping, and meal preparation. The evidence also shows that the Appellant is married and resides in her ██████████ home with her spouse and three children. The Appellant's daughter is the Appellant's approved HHS provider. The Appellant's Adult Services Worker reviewed the Appellant's HHS file and found that the file did not contain a DHS 54-A Medical Needs form for the Appellant's spouse. On ██████████, the Appellant's Adult Services Worker, ██████████ sent the Appellant an Advance Action Notice which informed the Appellant that effective ██████████ the Appellant's HHS would be suspended due to the Appellant's failure to provide a DHS 54-A Medical Needs form for her spouse, ██████████.


During the hearing the Appellant provided a completed DHS 54-A for her spouse, ██████████. ██████████ indicated in section K of the form that the Appellant's spouse was capable of providing care to the Appellant. (Appellant's Exhibit 1). The Appellant's daughter testified that she disagrees with ██████████ opinion. The Appellant's daughter indicated that her father walks with a cane and has numerous physical ailments and conditions which prevent him from caring for the Appellant.

Department HHS policy provides that HHS may only be authorized "...for those services or times which the responsible relative/legal dependent is unavailable or unable to provide." See Adult Services Manual, 363, page 5. ██████████ testified that the Appellant's spouse is a responsible relative and is required to provide care to the Appellant to the extent he is able. Department HHS policy at ASM 363, page 5 also defines unable to provide care as, "Unable means the responsible person has disabilities of his/her own which prevent care giving." These disabilities must be documented/verified by a medical professional on the DHS 54-A.

██████████ indicated on the DHS 54-A that the Appellant's spouse is physically able to provide care to the Appellant. I agree. The Appellant's spouse's documented diagnoses are chronic back pain and Asthma. There is no medically determined evidence that the Appellant's spouse, as a responsible relative, is physically unable or unavailable to provide care to the Appellant. Therefore, the Department correctly determined that the Appellant was not eligible for HHS because her spouse is available and physically able to care for the Appellant.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined that the Appellant is ineligible for HHS.


Docket No. 2011-52738 HHS
Decision and Order

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:



Date Mailed: 11/10/2011

***** 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 March 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.