

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2011-946 HHS
Case No. 4541081

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing. ██████████ appeared on her own behalf. ██████████, was present as a witness for the Appellant. ██████████, represented the Department. ██████████, was present as a Department witness.

ISSUE

Did the Department properly terminate Home Help Services payments to the 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. The Appellant is ██████████ Medicaid beneficiary who was receiving adult Home Help Services.
2. The Department received medical certification that the Appellant has been diagnosed with insulin dependant diabetes mellitus (IDDM), osteoarthritis, and coronary artery disease (CAD). (Exhibit 1, page 10)
3. On ██████████, the Adult Services Worker made a visit to the Appellant's home to conduct a Home Help Services assessment. (Exhibit 1, page 7)
4. As a result of the information gathered from the assessment, the worker determined that the Appellant did not qualify for ongoing Home Help Services. (Exhibit 1, page 7)

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5. On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that her Home Help Services payments would terminate effective [REDACTED]. (Exhibit 1, pages 4-6)
6. On [REDACTED], the State Office of Administrative Hearings and Rules received the Appellant's Request for Hearing. (Exhibit 1, page 3)
7. On [REDACTED], the Appellant's doctor wrote a letter indicating her current diagnoses are IDDM, diabetic neuropathy of lower extremities, hypertension with CAD, and osteoarthritis. (Exhibit 2)

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 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) 9-1-2008, 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.

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-54A.

- 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:

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- 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 had been receiving HHS hours for the tasks of housework, laundry, shopping, and meal preparation. (Exhibit 1, page 13) On ██████████, the Adult Services Worker (ASW) completed a review assessment for redetermination in accordance with Department policy. The ASW testified that she observed the Appellant walking without any signs of an unsteady gait and sitting without any problems. The Appellant's ██████████ was her enrolled HHS chore provider, but on the day of the home visit, the Appellant's ██████████ was at the home cleaning the kitchen because the Appellant's ██████████ could not be there. The ASW stated that the Appellant reported being able to do light housework but that her ██████████ does the shopping. The Appellant stated that it was a strain on her back to sweep the floor, and that she could not bend to sort laundry or carry laundry baskets up/down the stairs. The Appellant also explained that while she can reheat food in the microwave or make a sandwich, she can not prepare large meals because it requires a lot of standing to cut up vegetables. Lastly, the Appellant and the ASW discussed the Appellant's standing and sitting tolerances, and walking down the block as advised by the Appellant's doctor. The ASW also noted that the Appellant has ██████████ in the home. (ASW Testimony and Exhibit 1, page 7) Based on her observations and the information provided by the Appellant, the ASW determined that the Appellant no longer qualified for Home Help Services payments.

The Appellant disagrees with the determination and testified that ██████████ has diabetes and other medical problems, therefore she is not able to help with some things around the home. The Appellant also lives with her ██████████

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who has ADHD and is on SSI. The Appellant explained this is why her [REDACTED] comes in to her home to provide services. (Appellant Testimony)

The Appellant further testified that she has additional medical diagnoses. The Appellant provided a letter from her doctor dated [REDACTED], regarding her conditions and need for assistance with shopping and household chores. The letter did include diagnoses not previously provided to the Department, diabetic neuropathy of lower extremities and hypertension. (Exhibit 2) However, this information was not available to the ASW at the time of the [REDACTED], assessment. The Appellant also testified that she did not recall discussing the additional diagnoses with the ASW during the home visit.

Based on the information available to the Department at the time of the re-determination, eligibility for continuing Home Help Services was not supported. The Department did not have any documentation or knowledge of the Appellant's additional diagnoses. The Appellant's reported standing, sitting, and walking did not support ongoing eligibility, nor did the ASW observe the Appellant having any difficulty with walking or sitting. The Appellant may always reapply for the Home Help Services program.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department has properly terminated home help assistance payments for the Appellant based on the information available at the time of the re-assessment.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 12/29/2010

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***** NOTICE *****

The State Office of Administrative Hearings and Rules 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 State Office of Administrative Hearings and Rules 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.