

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. 2011-17182 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, appeared on her own behalf. ██████████, Appellant's ██████████, appeared as a witness for the Appellant.

██████████, represented the Department. ██████████, appeared as a witness for the Department.

ISSUE

Did the Department properly reduce Appellant's 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 ██████████ woman. (Exhibit 1).
2. Appellant is a Medicaid beneficiary.
3. Appellant has medical diagnoses of rheumatoid arthritis and lupus. (Exhibit 3). The Appellant visits her doctor quarterly and takes medication for her diagnoses.
4. The Appellant has not been hospitalized in the prior year, nor has she had surgery related to rheumatoid arthritis and lupus.
5. On ██████████, an ██████████ conducted a reassessment of Appellant's need

for HHS with Appellant present in Appellant's home. During the reassessment the ██████ asked questions and received answers from the Appellant.

6. During the ████████████████████, reassessment the ██████ observed the Appellant as a vibrant young woman. The ██████ observed the Appellant's fluid movement and determined her to be a person able and capable to perform many of her own tasks. (Exhibit 1, page 6).
7. When the ██████ reviewed the previous worker's authorization, he noted that the previous worker authorized many services at the maximum, but his observations and Appellant's answers to his questions led him to conclude Appellant did not meet the Medicaid policy criteria for maximum authorization.
8. Based on the ████████████████████, in-home assessment, the ██████ eliminated the task of eating, and reduced the tasks of dressing, grooming, housework, and meal preparation for Appellant. (Exhibit 3).
9. On ████████████████████, the Department sent an Advance Negative Action Notice notifying Appellant that Home Help Services payments would be reduced from ██████ to an amount of ██████. The reduction was due to elimination of the task of eating, and reduction of the tasks of dressing, grooming, housework, and meal preparation. (Exhibit 2).
10. On ████████████████████, the Michigan Administrative Hearing System received Appellant's Request for Hearing. (Exhibit 1, Pages 3-4).

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 agencies.

The ██████ testified that a comprehensive assessment was completed on ████████████████████, at which the Appellant was asked questions and for which Appellant provided answers. Adult Services Manual (ASM 363, 9-1-08), pages 2-4 of 24, addresses the issue of assessment:

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 customer in her/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer'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 agency 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 customer'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 for food and other necessities of daily living
- Laundry
- 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 ██████████ only be reduced for needs assessed at the three (3) level or greater.

Time and Task

The worker will allocate time for each task assessed a rank of three (3) or higher, based on interviews with the customer and provider, observation of the customer'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 (5) hours/month for shopping .
- Six (6) hours/month for light housework.
- Seven (7) hours/month for laundry.
- 25 hours/month for meal preparation

These are **maximums**; as always, if the customer needs fewer hours, that is what must be reduced. Hours should continue to be prorated in shared living arrangements.

Reduction of Dressing, Grooming, Housekeeping and Meal Preparation –

The ██████████ testified that during the ██████████, in-home reassessment the Appellant told the ██████████, or the ██████████ observed, that the Appellant did not need assistance with the task of eating. The ██████████ explained that he observed the Appellant having fluid movement without any visible pain or limitations, and determined that the intensity of previously authorized services could be reduced for the tasks of dressing, grooming, housework, and meal preparation for Appellant.

The Appellant testified that the ██████████ only observed the Appellant answering the door, sitting and getting up from the ottoman, and from that minimal observation he could not have concluded she would have less than the maximum need for assistance in dressing, grooming, housework and meal preparation.

The Appellant explained that she was often fatigued. The Appellant testified that the previous ██████████ asked her more about her disease and the medications that she took. The Appellant stated that she does look young and vibrant but because the current ██████████ did not ask more about her medical condition he could not have known enough about her limitations to make an accurate assessment.

The Appellant's ██████████ testified that the Appellant tries to be as independent as she can. The Appellant's aunt explained that the Appellant has good days and bad days.

The Appellant did not provide testimony as to specific reasons why specific tasks were necessary. The Appellant did not provide any medical documentation of need for assistance above what the ██████████ authorized in ██████████. The ██████████ provided testimony and medical documentation evidence that the Appellant's physician did not specify any specific tasks for which she had a need. (Exhibit 3).

Based on the ██████████, in-home assessment, the ██████████ eliminated the task of eating, and reduced the tasks of dressing, grooming, housework, and meal preparation for Appellant. (Exhibit 3).

The weight of credible evidence of record demonstrates the Department properly reduced the Appellant's time and tasks for dressing, grooming, housework, and meal preparation for Appellant. It was discussed during the hearing that the Appellant is currently authorized for ██████████ home health services assistance each month.

Elimination of authorization for Eating-

The ██████████ testified that during the ██████████, comprehensive assessment he asked the Appellant to describe what tasks her chore provider performed and the Appellant's response did not include any assistance with eating.

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The Appellant testified that because she has pain in both hands she at times needs assistance with cutting her food. The [REDACTED] clarified that the cutting of food is included in the meal preparation task, and that Appellant's description of tasks performed did not include assistance with cutting after the food was prepared and served. It was discussed during the hearing that the Appellant continues to have daily meal preparation authorized and paid for.

The Adult Services Manual (ASM 364) distinguishes between the tasks of meal preparation and eating, and supports the [REDACTED] statements and findings.

Summary -

The Appellant bears the burden of proving by a preponderance of evidence that the Department's reduction was not proper. The Appellant did not provide a preponderance of evidence that the Department's reduction was not proper. While the Appellant provided credible testimony that she has need for assistance, she did not provide a preponderance of evidence that the need was at the maximum levels she had been previously authorized. The Department must implement the Home Help Services program in accordance with Department policy.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 5/2/2011

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***** 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.