

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2011-26252 HHS
Case No. ██████████

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.

After due notice, a hearing was held on ██████████. ██████████ appeared on behalf of the Appellant. His witness was ██████████, choreprovider. ██████████, Appeal Review Officer, represented the Department. Her witness was ██████████, ASW.

PRELIMINARY MATTER

This matter was consolidated with 2011-26258 HHS for hearing.

ISSUE

Did the Department properly reduce the Appellant's Homes 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. At the time of hearing the Appellant is a ██████-year-old Medicaid beneficiary.
2. The Appellant is afflicted with: cervical stenosis, and cervical discharge; with neck and shoulder pain and DM. (See Testimony and Department's Exhibit C, pp. 6 and 10).
3. On ██████████, the ASW conducted an annual redetermination of the Appellant's HHS by way of an in-home visit. (Department's Exhibit A, p. 2)
4. Based on her review the ASW sent the Appellant an advance negative action notice on ██████████, informing her that HHS would be reduced effective ██████████. (Department's Exhibit A, pp. 2, 5)

5. The Appellant's further appeal rights were contained therein. (Department's Exhibit A, p. 8).
6. The instant request for hearing was received by the Michigan Administrative Hearing System for the Department of Community Health [REDACTED]. (Appellant's Exhibit #1).
7. The Appellant did not appear 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 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 medical professional.

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 his/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.

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- The assessment must be updated as often as necessary, but minimally at the six month review and annual re-determination.
- 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.

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.

Adult Service Manual (ASM), §363, pp. 2, 3 of 24, 9-1-2008.

The Department witness, ██████, testified that the physician's diagnosis, while supportive of limited services, did not support her prior level of services. She needed no hands on care. This was supported by her observation of the Appellant on in-home assessment where her hands showed no swelling and she did not appear to be in any pain. On comprehensive assessment the ASW reduced the Appellant's existing services in large part based on the observations of her medical provider, ██████.

Furthermore, the Appellant was determined to be a responsible relative [spouse] in her home and was both able and available to render assistance to her husband [See 2011-26258].

Specifically, the ASW determined that the able and available spouse could pass the Appellant his medication(s) and prepare his meals. Her remaining services of housework, laundry, grocery shopping went undisturbed.

The Appellant's representative said that his mother was very sick. He said he did not understand how the doctor could determine that his mother was not in declining health – because she had been in declining health since ██████. He said she was in “bad condition.” His witness said that she required changing 3 times a day.

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The crux of the Appellant's argument was that recent medical events¹ affecting his mother caused the [REDACTED], assessment to be unreliable and that she was too disabled to help his father with his hands on care.

The Appellant has failed to meet her burden of proof to establish that the reduction of HHS benefits was improperly levied. I find that the Department's assessment was accurate and in conformance with policy.

The following items summarize the remaining HHS available to the Appellant and the ALJ's agreement:

- Shopping was not disturbed at 4 minutes a day, 7 days a week.
- Housework was not disturbed at 5 minutes a day, 7 days a week.
- Laundry was not disturbed at 3 minutes a day, 7 days a week.

The in-home assessment represents a snap shot of the Appellant at a certain place in time. If following the in-home assessment under review today the Appellant believes there has been a change in condition sufficient to invalidate the ASW's [REDACTED], assessment, she should request a re-assessment. At the time of in-home assessment the decision of the ASW was supported by the evidence and her observations.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

¹ Mostly, [REDACTED] opinion.

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Date Mailed: 6/30/2011

***** 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.