

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2011-34337 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. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Supervisor, and ██████████ Adult Services Worker (ASW), from the ██████████ DHS-██████████ Office appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce and make Home Help Services (HHS) payments to 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. Appellant is a ██████ year-old Medicaid beneficiary.
2. Appellant has been diagnosed by a physician with hypertension, anxiety disorder and degenerative bone disease. Appellant has also diagnosed herself as having acid reflux and a bleeding ulcer. (Exhibit 1, page 15).
3. Appellant had been receiving 58 hours and 11 minutes of HHS per month, with a monthly care cost of ██████████. (Exhibit 1, page 18).
4. On ██████████ ASW ██████████ conducted a home visit as part of the annual review of Appellant's case. (Exhibit 1, page 13; Testimony of ASW ██████████).

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5. During that home visit, ASW ██████ learned that Appellant's ██████ year-old daughter was living with Appellant. (Exhibit 1, pages 13-14; Testimony of ASW ██████).
6. Based on that information provided by Appellant, ASW ██████ decided to prorate and reduce by one-half the HHS hours authorized for laundry, housework, meal preparation/cleanup, and shopping. The HHS time for bathing and dressing would remain the same. (Testimony of ASW ██████).
7. The reduction would result in a total of 36 hours and 37 minutes of HHS per month, with a monthly care cost of ██████. (Exhibit 1, page 17).
8. On ██████, the Department sent Appellant a Services and Payment Approval Notice notifying Appellant that her HHS would be reduced due to its proration policy. The reduction was to have a retroactive effect and start ██████. (Exhibit 1, pages 7-8).
9. On ██████, the Department received Appellant's Request for Hearing. (Exhibit 1, pages 4-6).
10. On ██████, the Department sent Appellant another Services and Payment Approval Notice. The second notice stated that Appellant's HHS payments had improperly reduced retroactively and that the previous amount of payment was being restored. (Exhibit 1, page 9).
11. On ██████, the Department also sent Appellant an Advance Negative Action Notice notifying Appellant that her HHS would be reduced due to its proration policy. The effective date of the action was ██████ ██████ (Exhibit 1, pages 10-12).

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.

Reduction/Proration

Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") addresses the issue of proration of IADL services:

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs except medication.

The limits are as follows:

- Five hours/month for shopping.
- Six hours/month for light housework.
- Seven 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 authorized. Hours should continue to be prorated in shared living arrangements.

(ASW 363, pages 3-4 of 24 (underline added by ALJ))

Service Plan Development

Address the following factors in the development of the service plan:

- 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.

(ASM 363, pages 4-5 of 24)

The undisputed evidence in this case establishes that the Appellant was living with her daughter in a shared living arrangement. In response, Appellant asserts both that her daughter is unable to help care for Appellant's needs, given her daughter's busy schedule and inability to do certain things correctly, and that her provider does not cook, clean, shop or do laundry for Appellant's daughter. (Testimony of Appellant).

However, ASM 362 and ASM 363 do not provide for any exceptions and the Department was bound to follow the mandated policy and prorate the HHS time and payment for IADLs by at least one-half. The Department did prorate HHS for

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housework, laundry, shopping, and meal preparation/cleanup by one-half, while leaving the Activities of Daily Living (ADLs) unaffected, and that decision must be sustained.

Payments

Appellant also argues that her providers were not fully paid for their work in [REDACTED]. (Testimony of Appellant). However, as clearly demonstrated in the payment history records, Appellant has received the correct amounts.

Payments of [REDACTED] and [REDACTED] were authorized in [REDACTED] (Exhibit 2, page 2) and, together, those two payments equal Appellant's monthly care cost for [REDACTED]. The latter payment was necessary to correct for the improper retroactive reduction. (Testimony of ASW [REDACTED]). Moreover, because Appellant switched providers at the end of [REDACTED], the [REDACTED] payment authorization was divided between the two providers, with one authorized for [REDACTED] of care (net payment of [REDACTED]) and the other [REDACTED] (net payment of [REDACTED]). (Exhibit 2, pages 3, 7-8).

With respect to May, payment was first issued for [REDACTED] for the time in May prior to the effective date of the reduction. (Exhibit 2, page 2). Subsequently, a payment in the amount of [REDACTED] was issued for the half of that month following the effective date of the reduction. (Exhibit 2, page 2).

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Steven Kibit
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 7/15/2011

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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.