

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

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IN THE MATTER OF:

██████████,

Appellant

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Docket No. 2011-50178 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 ██████████. The Appellant appeared without representation. Her witness was ██████████, choreprovider. ██████████, Appeals Review Officer, represented the Department. Her witness was ██████████, ASW.

**ISSUE**

Did the department properly reduce the 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. At the time of hearing the Appellant is a ██████-year-old, disabled, Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with sarcoidosis, osteopenia, osteoarthritis, DM, colon polyps, CVA, CHF, obesity, COPD, HTN fibromyalgia, lumbosacral disc degeneration, and GERD. (Appellant's Exhibit #2, p. 6)
3. On ██████████ the ASW (██████████) sent the Appellant an advance negative action notice advising her that HHS would be reduced effective ██████████, owing to a shared household. (Department's Exhibit A, pp. 2, 14, 15)
4. The ASW testified that on face to face home visit [██████████] it was discovered that the Appellant lived with her ██████-year-old sister who she observed in the kitchen washing dishes. (Department's Exhibit A, p. 14 and see Testimony of ██████████).
5. The Appellant said that her sister is too ill to assist in her care. (See Testimony of ██████████ and Appellant's Exhibit #2, p. 4).

6. The Appellant's chore provider testified that she only works for the Appellant. (See Testimony of [REDACTED].)
7. The Appellant testified that her physical condition has "worsened" recently. She reports having recently suffered from a brain attack on [REDACTED]. (See Testimony and Appellant's Exhibit #2, pp. 9-11)
8. The instant appeal was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on [REDACTED]. (Appellant's Exhibit #1)

### **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 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.

### **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.
- 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.

### **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
- 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. When hours exceed the RTS rationale must be provided.

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

### **Service Plan Development**

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

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- 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).

(Emphasis supplied) *Supra*, p. 5 of 24.

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The Department witness testified that on in-home assessment the evidence showed that the Appellant was living in a shared household arrangement with her sister. Although her notes

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referenced four people in the home, the reduction was only by half for the IADLs of housework, laundry, shopping and meal preparation.

The remaining ADLs were not changed or reassessed. The witness said she understands that the Appellant needs home help, thus her ADL rankings remained extant. The reduction was a result of application of the shared household policy - not observed improvement in the Appellant. See Testimony of ██████████.

The Appellant testified that her sister is too ill to contribute to her care and thus provides no assistance to the household in any capacity. She added that after her in-home visit she suffered a "brain attack" and was hospitalized at ██████████. Her choreprovider [present at discharge] executed a hand drawn contract with hospital physicians agreeing that she would provide 24/7 supervised care to the Appellant – until the provider deemed that the Appellant will no longer require such care. (See Appellant's Exhibit #2 at page 9.)

The Appellant's choreprovider testified that she segregates her duties for the benefit of the Appellant only. She said the only other people she has seen in the home were a niece, a son and a daughter. Their residency was not explored further.

On review of the testimony and the evidence the Administrative Law Judge finds that the comprehensive assessment was accurate when made and drawn according to policy. The Appellant had not preponderated her burden of proof that the Department erred in the reduction of her HHS benefit owing to shared household. The Appellant's sister may have serious illness herself, but there was no dispute that she lived with the Appellant at her residence.

The following indicates the application of proration to the Appellant's IADLs and the ALJ's agreement:

- Housework was prorated by half.
- Laundry was prorated by half.
- Shopping was prorated by half.
- Meal preparation was prorated by half.

Based on the information presented at hearing I found the proration policy to be correctly applied. However, the testimony of the Appellant and her evidence suggests a potentially significant change in condition on ██████████, [post appeal] of which the ASW had no knowledge until this hearing. Accordingly, the Appellant needs to alert her ASW of this development and request a new assessment or Expanded Home Help - if the parties have not yet done so.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly applied proration policy and reduced the Appellant's HHS payment on ██████████, to be effective ██████████.

  
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**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.

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Dale Malewska  
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 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.