

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2011-51807 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 ██████████. ██████████, the Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), and ██████████ Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services (HHS) case?

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 a ██████ year-old Medicaid beneficiary.
2. The Appellant has been diagnosed with dementia, radiculopathy, COPD, DJD, CVA, hypertension, and ASHD. (Exhibit 1, page 11)
3. On ██████████, the ASW made a visit to the Appellant's home as part of a comprehensive assessment. The Appellant's daughter was also present and forms were completed so she could be enrolled as the Appellant's HHS provider. (Exhibit 1, page 10)
4. On ██████████, the Department issued a services and Payment Approval Notice authorizing HHS retroactive to ██████████. (Exhibit 1, pages 5-6)
5. On ██████████, the ASW spoke with the Appellant by phone about her provider not working for her since ██████████. The Appellant indicated she had been performing her own activities of daily living and

instrumental activities of daily living. (Exhibit 1, page 10)

6. The ASW determined that the Appellant did not qualify for ongoing HHS because she was able to independently perform activities of daily living and instrumental activities of daily living. (Adult Services Worker Testimony)
7. On [REDACTED], the Department issued an Advance Action Notice to the Appellant indicating that her HHS case would terminate effective [REDACTED]. (Exhibit 1, pages 7-9)
8. On [REDACTED], the Appellant's Request for Hearing was received. (Exhibit 1, page 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 private or public agencies.

Adult Services Manual (ASM 363, 9-1-08), pages 2-15 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. When hours exceed the RTS rationale must be provided.

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-54-A.

- 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:

- 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 ASW completed a home visit as part of a comprehensive assessment to determine eligibility for HHS on [REDACTED]. The Appellant's daughter was also present and completed forms to be enrolled as the Appellant's HHS provider. (Exhibit 1, page 10) On [REDACTED], the Department issued a Services Approval and Payment Notice to the Appellant authorizing HHS retroactive to [REDACTED]. (Exhibit 1, page 5)

On [REDACTED], the ASW spoke with the Appellant by phone about her provider not working for her since [REDACTED]. The Appellant also indicated she had been performing her own activities of daily living and instrumental activities of daily living. (Exhibit 1, page 10) The ASW determined that the Appellant did not qualify for ongoing HHS because she was able to independently perform activities of daily living and instrumental activities of daily living. (ASW Testimony) On [REDACTED] the Department issued an Advance Action Notice to the Appellant indicating that her HHS case would terminate effective [REDACTED]. (Exhibit 1, pages 7-9)

The Appellant disagrees with the termination and testified her condition has gotten worse since the telephone call with the ASW. The Appellant stated that she still needs someone to help her. However, the Appellant's testimony indicated that she stays by herself and was able to do things herself after her daughter stopped coming over to help. The Appellant stated that she had been able to get herself dressed and cook meals. Occasionally other family members came in to help with chores like ironing. (Appellant Testimony)

The information available to the ASW in [REDACTED] indicated that the Appellant could perform her own activities of daily living and instrumental activities of daily living. The policy states that a functional ranking of 1 is appropriate when an activity can be performed independently. The Appellant's testimony also supports a finding that she was able to complete activities of daily living and instrumental activities of daily living independently at that time, though she occasionally received some unpaid assistance with instrumental activities of daily living from other family members. Under the above cited policy, HHS is only authorized for needs assessed as a 3 or greater and can not be authorized for any services that are provided free of charge. Accordingly, the Department's determination to terminate services in [REDACTED] is upheld.

The Appellant's testimony indicated a more recent decline in her condition and a current need for assistance. If she has not already done so, the Appellant may wish to re-apply for the HHS program and provide supporting medical documentation to the Department regarding any changes in her medical condition and needs for assistance with activities of daily living and instrumental activities of daily living.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated the Appellant's Home Help Services case based on the information available at that time.


IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Colleen Lack
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]


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Date Mailed: 12/1/2011

***** 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.