

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

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IN THE MATTER OF:

Docket No. 2011-51894 HHS
Case No. [REDACTED]

[REDACTED],

Appellant

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 [REDACTED]. The Appellant appeared without representation. She had no witnesses. [REDACTED], Appeals Review Officer, represented the Department. Her witnesses were [REDACTED] and [REDACTED], Adult Service Workers/DHS.

ISSUE

Did the Department properly reduce Home Help Services payments to the 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. At the time of hearing the Appellant is a [REDACTED]-year-old Medicaid beneficiary.
2. The Appellant is afflicted with asthma, Prurigo nodularis, Neurodermatitis, fibromyalgia, CFS, OSA, arthritis, obesity and diabetes. (Department's Exhibit A, p. 12)
3. On [REDACTED], ASW [REDACTED] sent the Appellant an Advance Negative Action Notice advising the Appellant that Home Help Services were being reduced following an assessment where the Appellant reported the ability to complete several tasks on her own. (Department's Exhibit A, p. 2)
4. The ASW said the reduction was based on her in-home observations and discussions with the Appellant during the in-home visit conducted on [REDACTED]. (Department's Exhibit A, p. 9 and See Testimony)

5. On the face-to-face home visit the ASW documented that the Appellant was better able to make her meals, set up medication, toilet, and dress – with the exception of being unable to don her compression socks. (Department's Exhibit A, p. 9 and See Testimony)
6. Following receipt of DHS 1212 and notice of appeal rights the Appellant filed a request for hearing 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 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 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. (Emphasis supplied)

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

The Department witness testified that on in-home assessment she observed the Appellant as requiring less task assistance with laundry, shopping/errands, housekeeping and meals. She assessed the Appellant as needing total assistance with bathing and some assistance with dressing.

At hearing the ASW identified a chief grievance of the Appellant as being the lack of an allowance for transportation. She said she explained to the Appellant that the HHS program does not provide transportation. She said other public service options for transportation were explained to the Appellant.

The Appellant testified that she disagreed with the assessment conducted by the ASW and that specifically she needed more time for the task of meal preparation owing to her malady of diabetes. The Appellant then explained that she lives in a resort community

██████████
Docket No. 2011-51894 HHS
Decision and Order

with limited public transportation and that getting to doctor appointments, etc., is problematic and should be addressed by the home help program.¹

The Appellant also testified that she suffered a change in medical condition in August when “her wound” reopened on ██████████. She said she did not advise her program representative of this development.

On review of the evidence the ALJ finds that the comprehensive assessment was accurate and drawn according to policy. By definition the Appellant demonstrated to the ASW that she was in an improved condition – needing some assistance – but not as much as previously granted. The ASW observations were consistent with improved ability – albeit not total independence.

The ALJ agreed with the following monthly task and time adjustments prepared by the ASW following her in-person assessment:

- Bathing – was increased from 7:53 minutes to 9:40 minutes.
- Grooming – was eliminated.
- Dressing – was reduced from 5:01 minutes to 3:13 minutes.
- Toileting - was eliminated.
- Transferring – was eliminated.
- Mobility - was eliminated.
- Medication - was eliminated.
- Housework – remained at 6:01 minutes.
- Laundry – remained at 6:53 minutes.
- Shopping – was increased from 3:35 minutes to 4:18 minutes.
- Meal Preparation - was decreased from 10:02 minutes to 5:22 minutes.
- Wound care – was reduced from 21:30 minutes to 3:13 minutes.

The Appellant did not preponderate that the Department erred in the adjustment of her grant based on the ASW observations of ██████████. Her chief complaint about the lack of transportation service under the HHS program would require a legislative or policy change and is not a remedy within the jurisdiction of this ALJ.

However, the Appellant did testify under oath that her wound “reopened” on ██████████. Since this could represent a significant change in condition the Appellant is advised to report this development to her Adult Service Worker and seek a new assessment.

Based on today’s record, I find that the HHS reduction was correctly decided as of the face-to-face assessment conducted on ██████████.

The Appellant failed to preponderate her burden of proof that the Department’s assessment was in error. A comprehensive assessment is the responsibility of the ASW and it was properly measured and applied to this Appellant.

¹ The Appellant is licensed to drive a motor vehicle.

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:



Date Mailed: 11/17/2011

***** 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.