

**STATE OF MICHIGAN**  
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**  
**FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2011-52129 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 ██████████, daughter, appeared on the Appellant's behalf. ██████████ Appeals Review Officer, represented the Department. ██████████, Adult Services Worker, appeared as a witness for the Department.

**ISSUE**

Did the Department properly assess 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 an █████ year-old Medicaid beneficiary.
2. The Appellant has been diagnosed with COPD, Rheumatoid arthritis, coronary artery disease, diabetes, back pain, high cholesterol, mild depression, dementia, memory disturbance, severe degenerative joint disease, and grief neurosis. (Exhibit 1, page 9; Exhibit 3)
3. The Appellant lives in a home with his son, daughter in law and their children. (Exhibit 1, pages 7-8)
4. The Appellant's daughter, who lives in a nearby home, is his caregiver. (Exhibit 1, pages 11-12, Exhibit 2, and Daughter Testimony)
5. The Appellant had been receiving a total of 30 hours and 13 minutes of HHS per month with a total monthly care cost of █████. (Exhibit 1, page 11)

6. On [REDACTED], an Adult Services Worker (ASW) made a visit to the Appellant's home to conduct a Home Help Services assessment as the Appellant's daughter requested an increase in HHS. (Exhibit 1, page 7)
7. The ASW increased the days per week HHS were authorized for assistance with grooming and increased the amount of time HHS was authorized for assistance with toileting. Subsequently, the ASW also increased the days per week HHS were authorized for assistance with bathing. (Exhibit 1, pages 11-12; Exhibit 2)
8. On [REDACTED], the Department issued a Services and Payment Approval Notice to the Appellant indicating Home Help Services were authorized for [REDACTED] per month effective [REDACTED]. (Exhibit 1, pages 5-6; Exhibit 2)
9. On [REDACTED], a hearing request contesting the amount of Home Help Services was submitted on the Appellant's behalf. (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 2-5 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.

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### 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-54A.

- 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).

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### **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 Appellant's daughter requested an increase in the Appellant's HHS authorization. An Adult Services Worker (ASW) completed a home visit as part of a comprehensive assessment on ██████████. The ASW increased the days per week HHS was authorized for assistance with grooming and increased the amount of time HHS was authorized for assistance with toileting. Subsequently, the ASW also increased the days per week HHS was authorized for assistance with bathing. (Exhibit 1, pages 11-12; Exhibit 2) On ██████████, the Department issued a Services and Payment Approval Notice to the Appellant indicating Home Help Services were authorized for ██████████ per month effective ██████████. (Exhibit 1, pages 5-6; Exhibit 2) The ASW retired and a different ASW was assigned to the Appellant's case effective ██████████

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██████████. The recently assigned ASW testified that the Appellant lives in a shared household, so the HHS hours authorized for housework, shopping, laundry, and meal preparation reflect proration for these activities as required by the Department policy.

The Appellant's daughter contests the authorization and submitted a letter from the Appellant's physician indicating the Appellant requires a caregiver 24 hours a day, 7 days a week. (Exhibit 3) The Appellant's daughter testified that she lives right around the corner from the Appellant. However, the HHS program does not cover 24 hour a day care, the Appellant's daughter testified that she is also the caregiver for two other persons, who reside in her home, and she has additional part time employment.

The Appellant's daughter testified that the Appellant has declined since his wife passed away in ██████████, and cries in the middle of the night. The Appellant's daughter also explained that it takes more time than the Department authorized for bathing because he has a hard time walking to get to the bathroom.

However the HHS program does not cover all the types of assistance the Appellant's daughter may be providing, such as verbal comforting, support, reminders and prompting. While this ALJ understands that the Appellant may be very slow in walking to get to the bathroom, mobility is also a separate ADL from bathing. Under the Adult Services Manual functional assessment definitions and rankings, bathing includes cleansing the body or parts of the body and shampooing hair, using a tub, shower, or sponge bath, including getting a basin of water, managing faucets, soaping, rinsing and drying. Adult Services Manual (ASM) 365, 10-1-1999, Page 1 of 2. Further, the assessment did not indicate a need for hands on assistance with mobility. Rather, the Appellant was observed to be able to walk and transfer with the use of a walker. (Exhibit 1, page 7)

The policy implemented by the Department also recognizes that in most cases, certain tasks are performed that benefit all members who reside in the home together, such as cleaning, laundry, shopping and meal preparation. Normally, it is appropriate to pro-rate the payment for those tasks in a shared household, as the Appellant's family members would have to clean their own home, make meals, shop and do laundry for themselves if they did not reside with the Appellant. Accordingly, the authorized hours for these activities must be prorated under Department policy.

**DECISION AND ORDER**

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

  
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**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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

cc:



Date Mailed: 11/29/2011

**\*\*\* 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.