

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

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IN THE MATTER OF:

Docket No. 2011-53815 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] [REDACTED] appeared on behalf of the Appellant. [REDACTED], Appeals Review Officer, represented the Department. Her witness was [REDACTED], ASW.

ISSUE

Did the Department properly terminate the Appellant's request for 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) The Appellant is a [REDACTED]-year Medicaid beneficiary. (Appellant's Exhibit #1)
- 2) The Appellant alleges disability and the need for HHS owing to the affliction of COPD. (Appellant's Exhibit #2)
- 3) The Appellant testified that he was denied program placement because the ASW said she could not find his house. (See Testimony of Appellant and Appellant's Exhibit #1)
- 4) The Appellant said that "we were all at home...we have dogs... none of them barked at the time of the alleged attempt to contact." (See Testimony)
- 5) The Department witness testified that she attempted contact at the Appellant's residence on [REDACTED] and [REDACTED] – there was no answer when she knocked on the door. (See Testimony of [REDACTED] and Department's Exhibit A, pp. 8, 9).

- 6) The Department witness, ASW [REDACTED] sent the Appellant an Advance Negative Action notice on [REDACTED], terminating services effective [REDACTED] – for lack of completion of the initial assessment. (See Testimony of [REDACTED] and Department's Exhibit A, p. 5)
- 7) The request for hearing on the instant appeal was received by the Michigan Administrative Hearings System 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 (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 medical professional.

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. (Emphasis supplied)

Adult Service Manual (ASM), §363, pp. 2, 3 of 23, 9-1-2008.

The Department witness testified that following notice she attempted to conduct an in-home assessment of the Appellant for purposes of evaluating his application for services. There was no one home when she knocked on the door - on two different occasions.

The Appellant testified that he was home - but heard nothing. The Appellant said the dogs would have barked – but they didn't. The Appellant's representative said they had no letter dated ██████████, from the Department and that the Appellant needs help on a daily basis as the Appellant is confined to a wheelchair.

On review there appeared to be no discrepancy in the Appellant's address as supplied by him. [See record throughout] There was no testimony that the Appellant's address was obscured or duplicated. Absent contact from the Appellant notifying the ASW of a different address – the Department prevails on the testimony of the ASW that she arrived at the proper location – twice. There was no answer at the door. The absence of the commotion of barking dogs is not proof that the home calls did not happen.

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It is the province of the ASW to determine eligibility for services; the ASM requires an in-home assessment of the prospective HHS recipients. It is fundamental that someone requesting Home Help Services respond for an in-person, in-home assessment.

The Appellant failed to preponderate his burden of proof that the Department erred in terminating his HHS.

DECISION AND ORDER

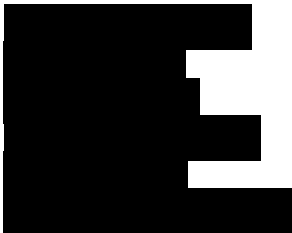
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly terminated the Appellant's HHS.

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: 12/20/2011

***** 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.