

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

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IN THE MATTER OF:

Docket No. 2012-22438 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, represented himself and testified. [REDACTED], Appeals Review Officer, represented the Department of Community Health (Department). [REDACTED], Adult Services Worker, testified for the Department. [REDACTED], Adult Services Supervisor, was also present.

ISSUE

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

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 Medicaid beneficiary who resides with his children in his [REDACTED], Michigan home.
2. The Appellant has been diagnosed with chronic low back pain, failed disc syndrome, migraine headaches, depression.
3. The Appellant was approved for and is receiving Home Help Services (HHS) for assistance with, housework, laundry, shopping, and meal preparation.
4. On [REDACTED], the Appellant's Adult Services Worker, [REDACTED], went to the Appellant's home and completed an in-home assessment with the Appellant. During the assessment, the Appellant

walked to the door unassisted and told ██████████ that he had been in the shower. The Appellant was able to walk and bend as he ambulated throughout his home.

5. On ██████████, ██████████ concluded that the Appellant was physically able to perform all ADLs and did not require hands on assistance.
6. On ██████████, ██████████ sent the Appellant an Advance Action Notice which informed the Appellant that effective ██████████, the Appellant's HHS would be terminated.
7. On ██████████, the Michigan Administrative Hearing System received the Appellant's request for hearing.

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.

The Department of Community Health HHS Medicaid policy is found in the Department of Human Services Adult Services Manual (ASM) at ASM 100- 170. The Department of Human Services issued Interim Policy Bulletin ASB 2011-001 with an effective date of October 1, 2011. This Interim Policy limits HHS eligibility for Medicaid beneficiaries with a medical need for assistance with one or more ADLs at a ranking of 3 or higher. On January 1, 2012, the Department of Human Services issued Adult Services Manual 120 which incorporated the provisions of Interim Policy Bulletin ASB 2011-001.

ASM 120, page 1-3 provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

The DHS-324, Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on **all open independent living services cases**. ASCAP, the automated workload management system, provides the format for the comprehensive assessment and all information must be entered on the computer program.

Requirements

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.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- 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.
 - Use the DHS-27, Authorization To Release Information, when requesting client information from another agency.
 - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. This form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion adult protective services cases; see SRM 131, Confidentiality.

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the home help services 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

ADLs and IADLs 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

Home help payments may only be authorized for needs assessed at the level 3 ranking or greater. An individual

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must be assessed with at least one activity of daily living in order to be eligible to receive home help services.

Note: If the assessment determines a need for an ADL at a level 3 or greater but these services are not paid for by the department, the individual would be eligible to receive IADL services.

See ASM 121, Functional Assessment Definitions and Ranks for a description of the rankings for activities of daily living and instrumental activities of daily living.

ASM 120

The evidence presented shows that the Appellant was approved for ██████████ per month of HHS for assistance with housework, laundry, meal preparation, and shopping. The evidence also shows that on ██████████, the Appellant's Adult Services Worker, ██████████ conducted a face-to-face home visit with the Appellant. ██████████ testified that based on the information provided by the Appellant, and her observations, she concluded that the Appellant did not require hands on assistance with ADLs.

██████████ testified that the Appellant's previously approved HHS included no payments for ADL care. ██████████ testified that during her assessment the Appellant told ██████████ that he did need assistance with IADLs. ██████████ testified that during her in-home assessment the Appellant greeted her at the door with his dog and told ██████████ he had been in the shower. ██████████ testified that the Appellant was able to walk unassisted, bend with no apparent pain and go through this medication. ██████████ testified that the Appellant told her that he needed assistance with bathing and his sons and ex-wife assisted him with bathing. ██████████ testified that she reviewed the information contained in the case file and obtained during her in-home assessment and concluded that the Appellant had no medical need for assistance with his ADLs.

The Appellant testified that he needs assistance with his ADLs. The Appellant testified that his wife and sons assist him with bathing. The Appellant testified that he is unable to drive due to his back pain and his ex-wife drives him to locations in the community. The Appellant testified that he gets injections in his back twice per month and following his injections most of his pain is relieved for a short period of time. The Appellant testified that ██████████ observations occurred when the Appellant's back injections were blocking his pain. The Appellant testified that he has many days where his back pain prevents him from bathing and completing other ADLs. The Appellant testified that he needs assistance with his ADL of bathing and with his IADLs and would like his HHS continued.

In response to the Appellant's testimony, ██████████ testified that the Appellant during the assessment was able to use his hands and arms, walk and bend and did not appear

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to need assistance with his ADLs. [REDACTED] testified that she terminated the Appellant's HHS because the October 1, 2011, policy change requires a termination when a HHS client requires no hands on assistance with ADLs. [REDACTED] testified that she could not approve the Appellant for IADLs because the Appellant did not have a medical need for hands on assistance with any ADL at a level 3 or higher.

The evidence presented shows that the Appellant's pre-[REDACTED] HHS assessment found that the Appellant had no medical need for hands on assistance with his ADLs. The evidence also shows that in [REDACTED], [REDACTED] completed a face-to-face HHS assessment and properly concluded that the Appellant did not require hands on assistance with his ADLs. Therefore, based on the [REDACTED], change in DHS policy, [REDACTED] properly terminated the Appellant's HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined that the Appellant was ineligible for HHS and properly terminated the Appellant's Home Help Services.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

Martin D. Snider
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: _____

***** 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.



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