

**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. 2012-25506 HHS

██████████

██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████ ██████████ the Appellant's representative, appeared at hearing on her behalf.

██████████, Appeals and Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department. ██████████, Adult Services Supervisor, was present on behalf of the Department.

ISSUE

Did the Department properly deny the Appellant's Home Help Services (HHS) application?

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 applied for Adult Home Help Services.
2. The Appellant has submitted a DHS-54A Medical Needs form to the Department, in conjunction with her HHS application.
3. The above referenced 54A indicates she has a medical need for assistance with Instrumental Activities of Daily Living.
4. The Appellant is ██████ years old and resides with her mother.
5. The Appellant is diagnosed with refractory localization related epilepsy. She has seizures daily, despite taking medications to treat them.

6. The Appellant's representative states she requires 24 hour monitoring to assure her safety and respond to seizures should they occur.
7. The Appellant is able to perform her own personal care, referred to as Activities of Daily Living in DHS terms.
8. The Appellant's mother must work outside the home but is unable to leave the Appellant without monitoring.
9. The Department assigned an Adult Services Worker to complete a comprehensive assessment of the Appellant's needs in conjunction with her HHS application.
10. The ASW completed the home call and comprehensive assessment
██████████
11. The ASW determined the Appellant is independent with all Activities of Daily Living at the assessment she completed.
12. On ██████████ the Department sent the Appellant a Denial Notice indicating she had not been authorized to receive payment assistance for HHS services.
13. 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.

Adult Services Manual (ASM 120, 11-1-2011), pages 2-5 of 6 addresses the adult services comprehensive assessment:

INTRODUCTION

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 will 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-26, 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. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS 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 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

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 even with human assistance and/or assistive technology.

HHS payments may only be authorized for needs assessed at the 3 level or greater.

An individual 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.

Example: Ms. Smith is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADLs if the assessment determined a need at a level 3 or greater.

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.

Time and Task

The specialist 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.

An assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). **The specialist must assess each task according to the actual time required for its completion.**

Example: A client needs assistance with cutting up food. The specialist would only pay for the time required to cur the food and not the full amount of time allotted under the RTS for eating.

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs except medication. The limits are as follows:

- Five hours/month for shopping
- Six hours/month for light housework
- Seven hours/month for laundry
- 25 hours/month for meal preparation

Proration of IADLs

If the client does not require the maximum allowable hours for IADLs, authorize only the amount of time needed for each task. Assessed hour for IADLs (except medications) must be prorated by **one half** in shared living arrangements where other adults reside in the home, as home help services are **only** for the benefit of the client.

Note: This does not include situations where others live in adjoining apartments/flats or in a separate home on shared property and there is no shared, common living area.

In shared living arrangements, where it can be **clearly** documented that IADLs for the eligible client are completed separately from others in the home, hours for IADLs do not need to be prorated.

Example: Client has special dietary needs and meals are prepared separately; client is incontinent of bowel and/or bladder and laundry is completed separately; client's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc.

*Adult Services Manual (ASM) 120, 11-1-2011,
Pages 1-4 of 6*

The ASW completed a home call ██████████ and conducted an assessment. As a result of her assessment, she determined the Appellant did not require physical assistance with any of the Activities of Daily Living (ADLs) as defined in the DHS policy. She determined this based upon her own observations and discussion with the Appellant's mother at the home call. The worker was specifically informed the Appellant does bathe herself, dress herself and otherwise perform her own personal care. She is unable to cook due to seizures and should have someone present in the bathroom monitoring her during bathing, in case of a seizure. The worker determined the Appellant did not require physical assistance with any of the ADLs as defined in DHS policy and denied the application based upon her assessment. She thereafter sent Notice of the denial.

The Appellant's representative did not dispute the determination that the Appellant is able to perform her own ADLs without physical assistance. She did present uncontested evidence the Appellant suffers multiple seizures daily and is not left alone because of this. She presented evidence the Appellant's mother must work outside the home to support the family due to their economic circumstances but cannot leave the Appellant alone for safety considerations. She agreed the family is seeking services for monitoring the Appellant while her mother works outside the home.

After the hearing the evidence was reviewed. This ALJ finds the testimony presented on behalf of the Appellant credible. It presents a difficult circumstance for the family. However, the need for monitoring does not satisfy the eligibility criteria set out by the Department for Home Help Services. It is specifically excluded from coverage by the policy. In order to achieve a functional rank that results in eligibility for payment assistance through this program, a functional rank of 3 or higher must be determined by the worker. The need for monitoring does not result in a functional rank higher than 2 according to the functional rankings and definitions published in the Adult Services Manual.

There was credible evidence presented establishing that the ASW performed an adequate comprehensive assessment at the home call. She correctly applied the DHS policy referenced above, resulting in a denial of the application. Under the policy, this circumstances faced by the Appellant does not meet the eligibility criteria established by the Department, thus the application was properly denied.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:



Date Mailed: 5-4-12

***** 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.