

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

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**IN THE MATTER OF:**

██████████,

Appellant

**Docket No.** 2012-39355 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 ██████████. ██████████, housekeeper, represented the Appellant. ██████████, the Appellant, was present. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

**ISSUE**

Did the Department properly suspend 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 a Medicaid beneficiary who had been authorized for Home Help Services.
2. The Appellant has been diagnosed with low back pain, hernia, and chronic manic depression. (Exhibit 1, page 12)
3. The Appellant had been receiving HHS for assistance with the Instrumental Activities of Daily Living ("IADLs") of housework, laundry, shopping and meal preparation. (Exhibit 1, page 13)
4. On ██████████, the ASW went to the Appellant's home and completed an in-home assessment for a review of the Appellant's HHS case. The ASW went over the Activities of Daily Living ("ADLs") included in the HHS program and the Appellant did not report any needs for assistance with these activities. (ASW Testimony and Exhibit 1, page 10)

5. Based on the available information the ASW concluded that the Appellant did not have a medical need for hands on assistance with any ADL. (ASW Testimony, Exhibit 1, pages 10 and 14)
6. On ██████████, the Department sent the Appellant an Advance Action Notice which informed him that effective ██████████ his HHS case would be suspended based on the new policy which requires the need for hands on services with at least one ADL. (Exhibit 1, pages 6-9)
7. On ██████████, the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, page 5)

### **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 1-5 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.

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### **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.

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### **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 cure 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 1-5 of 6*

Certain services are not covered by HHS. ASM 101 provides a listing of the services not covered by HHS.

### **Services not Covered by Home Help**

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding, teaching 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 (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

**Note:** The above list is not all inclusive.

*Adult Services Manual (ASM) 101, 11-1-2011,  
Pages 3-4 of 4.*

██████████  
Docket No. 2012-39355 HHS  
Decision and Order

The Appellant had only been authorized HHS for assistance with the IADLs of housework, laundry, shopping and meal preparation. (Exhibit 1, page 13)

On ██████████, the ASW went to the Appellant's home and completed an in-home assessment for a review of the Appellant's HHS case. The ASW went over the ADLs included in the HHS program and the Appellant did not report any needs for assistance with these activities. The ASW also noted that the Appellant does not use any adaptive equipment. (ASW Testimony and Exhibit 1, page 10) Accordingly, the ASW determined that the Appellant's HHS case must be suspended because he did not need hands on assistance, functional ranking 3 or greater, with at least one ADL.

The Appellant disagrees with the suspension. The Appellant's housekeeper testified that the Appellant needs assistance with taking his medication, cleaning, getting to the doctor, and eating right. She explained that the Appellant does not understand or know what he is doing. However, her testimony indicated that the Appellant does not need assistance with bathing, dressing, grooming, toileting and feeding himself. The Appellant's housekeeper testified that the Appellant has a pin in his leg and while sometimes he messes up, he is able to walk and does not need assistance transferring. (Housekeeper Testimony)

There is not sufficient evidence to establish that the Appellant needed hands on assistance, functional ranking 3 or greater, with at least one ADL. Rather, the evidence indicates the Appellant needs hands on assistance with the IADLs of housework, shopping, laundry and meal preparation, as well as medication reminders. Under the above cited policy, transportation to doctor appointments is not covered by the HHS program. No needs for hands on assistance with an ADL (eating, toileting, bathing, grooming, dressing, transferring, or mobility) were identified. Accordingly, the ASW properly applied Adult Services Manual policy and took action to terminate the Appellant's HHS case because the Appellant did not require hands on assistance, functional ranking 3 or greater, with at least one ADL based on the available information.

However, the ASW erred by issuing the ██████████ Advance Negative Action Notice with a ██████████ effective date. Adult Services Manual policy specifies that advance notice is to be issued for reductions, suspensions or terminations and "the effective date of the negative action is ten business days **after** the date the notice is mailed to the client." (Adult Services Manual (ASM) 150, 11-1-2011, Pages 1-4, emphasis in original.) The proposed suspension to the Appellant's HHS case must be upheld, but it cannot be effective any earlier than 10 business days from the ██████████ Advance Negative Action Notice.

[REDACTED]  
Docket No. 2012-39355 HHS  
Decision and Order

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly suspended the Appellant's HHS authorization based on the information available, but failed to provide 10 business days advance notice.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is PARTIALLY AFFIRMED and PARTIALLY REVERSED. The suspension of the Appellant's HHS case is upheld, but cannot be effective any earlier than 10 business days from the [REDACTED] Advance Negative Action Notice.

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Colleen Lack  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 9/6/2012

**\*\*\* 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.