# 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

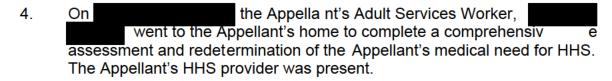
IN THE MATTER OF:		De alcat Na	0040 40754 11110
Case		No.	2012-40754 HHS
Appellant/			
DECISION AND ORDER			
This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 <i>et seq.</i> , upon the Appellant's request for a hearing.			
After due notice, a hearing wa by and represented the Department o testifie			llant was represented
ISSUE			
Did the Department properly Services (HHS) payments?	determine the amount	of the Ap	pellant's Home Help
FINDINGS OF FACT			
The Administrative Law Judge evidence on the whole record,	•	n petent, ma	terial and substantial
1. The Appellant is a Medi caid beneficiary who resi des in			

 The Appellant has been diagnosed wi th post cardio vascular accident, ataxia, hemiparesis, and midbrain pontine hemorrha. The Appellant is non ambulatory and uses a power wheel chai r. She is non verbal with limited receptive skills.

HHS provider.

with

3. The Appellant was a pproved for and is receiving \$977.53. per month of Home Help Services (HHS) for assistance with Activities of Daily Liv ing (ADLs) and Instrumental Activ ities of Daily Living (IAD Ls), of bathing, grooming, dressing, toiletin g, eating, transferring mobility, medication, housework, laundry, shopping, and meal preparation.



- 5. Subsequent to the home visit concluded that the Appellant's HHS services should be reduced because the Appellant was residing in a shared household, the Appellant was not incontinent and was wearing a diaper at night, and because the Appellant was mobile with her power chair. also concluded that the time provided for bathing and dressing should be increased and the time for transferring and grooming should be continued.
- 6. On sent the Appellant an Advance Action Notice which informed the Appellant that effective Appellant's HHS would be reduced to \$718.39 per month.
- 7. On the Michigan Administrative Hearing System received the Appellant's request for hearing.

#### CONCLUSIONS OF LAW

The Medic al Ass istance Program is established purs uant 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 statestate 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 car e in the least restrictive, preferred settings. These activities must be certified by a physic ian and may be provided by individuals or by private or public agencies.

The Department of Community H ealth 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 assist ance 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.

The Department of Community Health HHS M edicaid policy is found in the Department of Human Services Adult Se rvices Manual (ASM) at ASM 100-170. ASM 120, pp. 1-3, provides that HHS policy for comprehensi ve asses sments. A SM 120 provides in pertinent part:

#### INTRODUCTION

The DHS-324, Adult Services Co mprehensive 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 automat ed 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 ass essment will b e completed on all ne w cases.
- A face-to-face contact is required with the client in his/her place of residence.
- The asses sment 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 r equired on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as neces sary, but minimally at the six month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confident ial sources and/or sharing information from the department record.
  - •• Use the DHS-27, Authorizat ion To Release Information, when requesting c lient information from another agency.
  - •• Use the DHS-1555, Authorizat ion to Release Prot ected Health Information, if r equesting additional medical documentation; see RFF 1555. This form is primarily used for APS cases.
- Follow rules of confidentia lity when h ome help cases hav e companion adult protective serv ices 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 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.

Complex Care special Needs care tasks are

Complex care refers to conditions requiring intervention with techniques and/or knowledge. These complex

performed on client's whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating and feeding.
- •Catheters or legs bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- •Range of motion exercises.
- Peritoneal dialysis.
- ·Wound care.
- •Respiratory treatment.
- Ventilators.
- Injections.

When ass essing a c lient with comp lex c are needs, refer to the complex care guidelines on the adult services home page.

#### Time and Task

The specialist will allo cate time for each task assessed a rank of 3 or higher, based on interviews with the client and provider,

observation of the c lient's abilities and use of the reasonable time schedule (RTS) as a **guide**. The RTS c an be found in ASCAP under the Payment module, Time and T ask screen. When hours exceed the RTS, rationale **must** be provided.

An assess ment of need, at a r anking of 3 or higher, does not automatically guarantee the maximu m allotted time allowed by the reasonable time schedule (RT S). The specialist must assess each task according to the actual time required for its completion.

# IADL Maximum Allowable Hours

There are monthly maximum hour limits on all instrumental activities of daily living 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 hours 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 adjoined apartments/flats or in a separat e 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 eligib—le clien t are completed separately from others in the home, hours for IADLs do not need to be prorated.

# Responsible Relatives

Activities of daily living may be approved when the responsible relative is **unavailable** or **unable** to provide these services. **Note: Unavailable** means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented/verified by a medical professional on the DHS-54A, Medical Needs form.

Legal Do when a Dependent unless they **not** approve shopping, laundry, or light housecle aning, responsible relative of the client resides in t he home,

are unavailable or unable to prov ide these services. Document findings in the general narrative in ASCAP.

Do **not** approve shopping, laun dry or light housecleaning, when a legal dependent of the client (mi nors 15-17) resides in the hom e, **unless** they are unavailable or unable to provide these services.

Expanded Home Ex Help Services indicates (EHHS) cost of care cannot be

Expanded home help services exists if all basic home help services eligibility criter ia are met and the assess ment the client's needs are so extensive that the

Met within the monthly maximum payment level of

\$549.99

Michigan reason,

Department of

for

Community (MDCH).

Health Approvals

When the client's cost of care exceeds \$1299.99 for any

the adult services specialist must submit a written request

approval to the Michigan Department of Community Health

Follow the **Procedures for Submitting Expanded Home Help Requests** found on the Adult Services Home Page. Submit the request with all required documentation to:

Michigan Department of Community Health Long Term Care Services Policy Section Capital Commons Building, 6th Floor P.O. Box 30479 Lansing, MI 48909

MDCH will provide written docum entation (DCH-1785) of approval. A new request **must** be submitted to the Michigan Department of Community Health whenever there is an increase in the cost of care amount. A new request is **not** require if the cost of care decreases below the approved amount set by MDCH.

**Note:** If an expanded home help case closes and reopens within 90 days and the care cost remains the same, a new MDCH approval is **not** required.

ASM 120, pp. 1-3.

The evidence presented shows that there is no dispute that the Appellant has a medical need for Home Help Services (HHS) for assistance with Activities of Daily Living (ADLs) of bathing, grooming, dressing and transferring. The Appellant is disputing reductions in Instrumental Activities of Daily Living (I ADLs), of medication, housework, laundry, shopping, and meal preparation and reductions in the ADLs of eating, toileting, and mobility.

The undisputed evidence shows that the Appellant resides in the same household wit h her HHS provider and POA testified that the Appellant and reside in the same home. testified that prepares meals, and comple tes housework, shopping and laundry for and the Appellant. te stified that she was not pr ovided any information that performs the IADLs of meal preparation, housework, shopping indicates that and laundry for herself independent of the Appellant I ADLs. testified that she was not told by that shopped, prepared meals or completed those tasks just for herself. testified that she completes her shopping and the Appellant's shopping at the same time but must purchase certain food just for the Appellant. she prepares the Appellant's meals separat ely because the Appellant can't eat certain foods and the Appellant's food must be prepared to allow for the Appellant's swallowing difficulties. also testified that the Appellant soils her clothing and washes the soiled clothing separately from

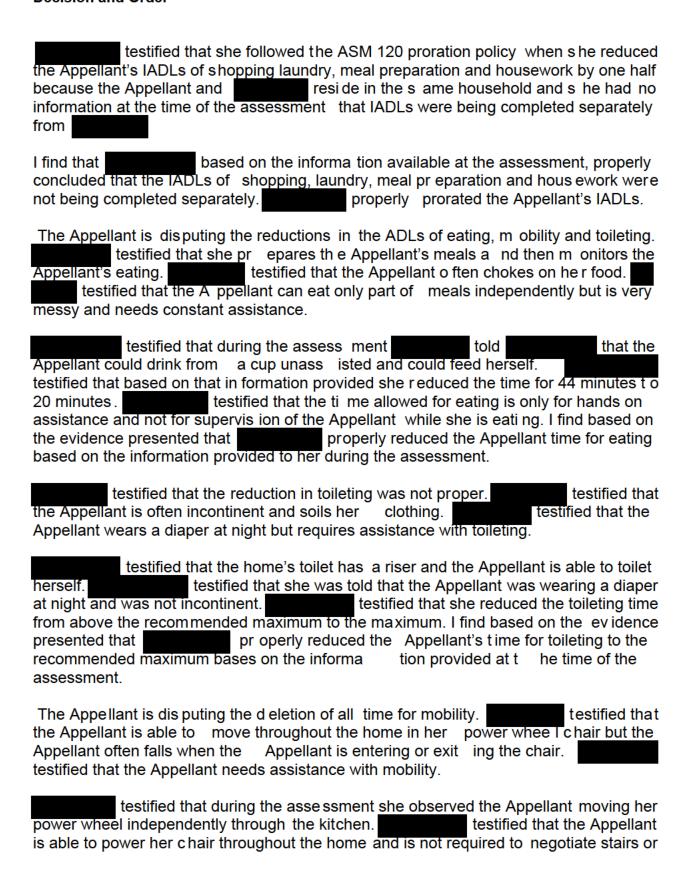
Department policy at ASM 120 provides in pertinent part:

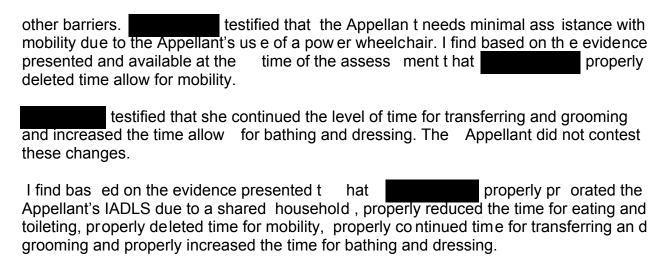
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ASM 120, p 4.





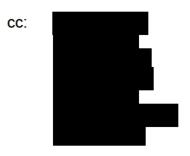
#### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined the amount of 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



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 March 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 rehearing decision.