

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████ Case

Docket No. 2012-40754 HHS
No. ██████████

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 ██████████. The Appellant was represented by ██████████ and ██████████. ██████████ represented the Department of Community Health (Department). ██████████ testified for the Department.

ISSUE

Did the Department properly determine the amount of 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 in ██████████ with ██████████ HHS provider.
2. The Appellant has been diagnosed with post cardiovascular accident, ataxia, hemiparesis, and midbrain pontine hemorrhage. The Appellant is non ambulatory and uses a power wheelchair. She is non verbal with limited receptive skills.
3. The Appellant was approved for and is receiving \$977.53 per month of Home Help Services (HHS) for assistance with Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs), of bathing, grooming, dressing, toileting, eating, transferring mobility, medication, housework, laundry, shopping, and meal preparation.

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4. On [REDACTED] the Appellant's Adult Services Worker, [REDACTED] went to the Appellant's home to complete a comprehensive assessment and redetermination of the Appellant's medical need for HHS. The Appellant's HHS provider was present.
5. Subsequent to the [REDACTED] home visit [REDACTED] 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. [REDACTED] 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 [REDACTED] [REDACTED] sent the Appellant an Advance Action Notice which informed the Appellant that effective [REDACTED], the Appellant's HHS would be reduced to \$718.39 per month.
7. On [REDACTED] 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.

The Department of Community Health HHS Medicaid policy is found in the Department of Human Services Adult Services Manual (ASM) at ASM 100-170. ASM 120, pp. 1-3, provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

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 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.

Activities of Daily Living (ADL)	<p>Conduct a functional assessment to determine the client's ability to perform the following activities:</p> <ul style="list-style-type: none">• Eating.• Toileting.• Bathing.• Grooming.• Dressing.• Transferring.• Mobility.
Instrumental Activities of Daily Living (IADL)	<ul style="list-style-type: none">• Taking Medication.• Meal preparation and cleanup.• Shopping.• Laundry.• Light housework
Functional Scale	<p>ADLs and IADLs are assessed according to the following five point scale:</p> <ol style="list-style-type: none">1. Independent. <p>Performs the activity safely with no human assistance.</p>2. Verbal assistance. <p>Performs the activity with verbal assistance such as reminding, guiding or encouraging.</p>3. Some human assistance. <p>Performs the activity with some direct physical assistance and/or assistive technology.</p>4. Much human assistance. <p>Performs the activity with a great deal of human assistance and/or assistive technology.</p>

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 assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

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.**

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 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.

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 **not** approve shopping, laundry, or light housecleaning, when a Dependent responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Do **not** approve shopping, laundry or light housecleaning, when a legal dependent of the client (minors 15-17) resides in the home, **unless** they are unavailable or unable to provide these services.

Expanded Home Help Services Expanded home help services exists if all basic home help services eligibility criteria are met and the assessment indicates (EHHS) the client's needs are so extensive that the cost of care cannot be Met within the monthly maximum payment level of \$549.99

Michigan When the client's cost of care exceeds \$1299.99 for any reason, the adult services specialist must submit a written request Department of for approval to the Michigan Department of Community Health Community (MDCH). Health Approvals

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 documentation (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** required 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 (IADLs), 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 with her HHS provider and POA [REDACTED]. [REDACTED] testified that the Appellant and [REDACTED] reside in the same home. [REDACTED] testified that [REDACTED] prepares meals, and completes housework, shopping and laundry for [REDACTED] and the Appellant. [REDACTED] testified that she was not provided any information that indicates that [REDACTED] performs the IADLs of meal preparation, housework, shopping and laundry for herself independent of the Appellant's IADLs. [REDACTED] testified that she was not told by [REDACTED] that [REDACTED] shopped, prepared meals or completed those tasks just for herself.

[REDACTED] testified that she completes her shopping and the Appellant's shopping at the same time but must purchase certain food just for the Appellant. [REDACTED] testified that she prepares the Appellant's meals separately because the Appellant can't eat certain foods and the Appellant's food must be prepared to allow for the Appellant's swallowing difficulties. [REDACTED] also testified that the Appellant soils her clothing and [REDACTED] washes the soiled clothing separately from [REDACTED].

Department policy at ASM 120 provides in pertinent part:

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 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.

ASM 120, p 4.

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██████████ testified that she followed the ASM 120 proration policy when she reduced the Appellant's IADLs of shopping laundry, meal preparation and housework by one half because the Appellant and ██████████ reside in the same household and she had no information at the time of the assessment that IADLs were being completed separately from ██████████

I find that ██████████ based on the information available at the assessment, properly concluded that the IADLs of shopping, laundry, meal preparation and housework were not being completed separately. ██████████ properly prorated the Appellant's IADLs.

The Appellant is disputing the reductions in the ADLs of eating, mobility and toileting. ██████████ testified that she prepares the Appellant's meals and then monitors the Appellant's eating. ██████████ testified that the Appellant often chokes on her food. ██████████ testified that the Appellant can eat only part of meals independently but is very messy and needs constant assistance.

██████████ testified that during the assessment ██████████ told ██████████ that the Appellant could drink from a cup unassisted and could feed herself. ██████████ testified that based on that information provided she reduced the time for 44 minutes to 20 minutes. ██████████ testified that the time allowed for eating is only for hands on assistance and not for supervision of the Appellant while she is eating. I find based on the evidence presented that ██████████ properly reduced the Appellant time for eating based on the information provided to her during the assessment.

██████████ testified that the reduction in toileting was not proper. ██████████ testified that the Appellant is often incontinent and soils her clothing. ██████████ testified that the Appellant wears a diaper at night but requires assistance with toileting.

██████████ testified that the home's toilet has a riser and the Appellant is able to toilet herself. ██████████ testified that she was told that the Appellant was wearing a diaper at night and was not incontinent. ██████████ testified that she reduced the toileting time from above the recommended maximum to the maximum. I find based on the evidence presented that ██████████ properly reduced the Appellant's time for toileting to the recommended maximum based on the information provided at the time of the assessment.

The Appellant is disputing the deletion of all time for mobility. ██████████ testified that the Appellant is able to move throughout the home in her power wheelchair but the Appellant often falls when the Appellant is entering or exiting the chair. ██████████ testified that the Appellant needs assistance with mobility.

██████████ testified that during the assessment she observed the Appellant moving her power wheel independently through the kitchen. ██████████ testified that the Appellant is able to power her chair throughout the home and is not required to negotiate stairs or

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other barriers. ██████████ testified that the Appellant needs minimal assistance with mobility due to the Appellant's use of a power wheelchair. I find based on the evidence presented and available at the time of the assessment that ██████████ properly deleted time allow for mobility.

██████████ testified that she continued the level of time for transferring and grooming and increased the time allow for bathing and dressing. The Appellant did not contest these changes.

I find based on the evidence presented that ██████████ properly prorated the Appellant's IADLS due to a shared household, properly reduced the time for eating and toileting, properly deleted time for mobility, properly continued time for transferring and grooming and properly increased the time for bathing and dressing.

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

cc:



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.