

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-5199 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 ██████████ ██████████, the Appellant, appeared on his own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department. The record was left open for two weeks for the Appellant to submit additional medical documentation, which has been received.

**ISSUE**

Did the Department properly reduce the Appellant's Home Help Services (HHS) authorization?

**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 ██████ year-old Medicaid beneficiary.
2. The Appellant has a history of multiple medical impairments, including chronic back pain, colon cancer, degenerative disc disease lumbar and cervical, and unilateral right profound hearing loss. The Appellant underwent a bone anchored hearing aid surgery, followed by revisions due to infection and keloid. (Exhibit 1, page 10; Exhibit 3 and Exhibit 4)
3. The Appellant had been receiving a total of 28 hours and 48 minutes of HHS per month for assistance with housework, laundry, meal preparation and shopping/errands with a monthly care cost of ██████████ (Exhibit 1,

page 14)

4. On [REDACTED], the Appellant's doctor completed a DHS-54A Medical Needs form certifying that the Appellant has a medical need for assistance with meal preparation, laundry and housework. (Exhibit 4)
5. On [REDACTED], the ASW made a visit to the Appellant's home to conduct a Home Help Services assessment. The Appellant's provider was not available for the home visit, and had not been available for the prior home visit. The Appellant was guarded when asked for details about his functional abilities and needs for assistance. The ASW observed the Appellant to be independent with mobility and transferring. The ASW understood the Appellant to be independent with Activities of Daily Living (ADLs), that he is able to drive and occasionally goes to the store. (Exhibit 1, pages 9, and 11-13, and ASW Testimony)
6. As a result of the information gathered, the ASW determined that the Appellant's HHS hours should be reduced. (Exhibit 1, pages 11-15)
7. On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that his HHS case would be reduced to [REDACTED] per month effective [REDACTED]. (Exhibit 1, pages 6-8)
8. On [REDACTED], the Appellant's Request for Hearing was received at the local Department of Human Services Office. The Request for Hearing was received by the Michigan Administrative Hearing System for the Department of Community Health on [REDACTED]. (Exhibit 1, pages 4-5)

### **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 363, 9-1-08), addresses the comprehensive assessment, functional assessment, time and task authorization, service plan development, necessity for services, and services not covered:

## **COMPREHENSIVE ASSESSMENT**

The Adult Services Comprehensive Assessment (FIA-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will be entered on the computer program.

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.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client's social security card.
- Observe a picture I.D. of the caregiver, if applicable.
- 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.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

### **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 ADL's and IADL's 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.

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

#### **Time and Task**

The worker 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.

### IADL Maximum Allowable Hours

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

- 5 hours/month for shopping
- 6 hours/month for light housework
- 7 hours/month for laundry
- 25 hours/month for meal preparation

These are maximums; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

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### Service Plan Development

Address the following factors in the development of the service plan:

- The specific services to be provided, by whom and at what cost.
- The extent to which the client does not perform activities essential to caring for self. The intent of the Home Help program is to assist individuals to function as independently as possible. It is important to work with the recipient and the provider in developing a plan to achieve this goal.
- The kinds and amounts of activities required for the client's maintenance and functioning in the living environment.
- The availability or ability of a responsible relative or legal dependent of the client to perform the tasks the client does not perform. Authorize HHS **only** for those services or times which the responsible relative/legal dependent is unavailable or unable to provide.

**Note: Unavailable** means absence from the home, for employment or other legitimate reasons. **Unable** means the responsible person has disabilities of his/her own which

prevent caregiving. These disabilities must be documented/verified by a medical professional on the DHS-54-A.

- Do **not** authorize HHS payments to a responsible relative or legal dependent of the client.
- The extent to which others in the home are able and available to provide the needed services. Authorize HHS **only** for the benefit of the client and **not** for others in the home. If others are living in the home, prorate the IADL's by at least 1/2, more if appropriate.
- The availability of services currently provided free of charge. A written statement by the provider that he is no longer able to furnish the service at no cost is sufficient for payment to be authorized as long as the provider is not a responsible relative of the client.
- HHS may be authorized when the client is receiving other home care services if the services are not duplicative (same service for same time period).

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### **Necessity For Service**

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
  - Physician.
  - Nurse practitioner.
  - Occupational therapist.
  - Physical therapist.

**Exception:** DCH will accept a DHS-54A completed by a VA physician or the VA medical form in lieu of the medical needs form.

The medical professional certifies that the client's need for service is related to an existing medical condition. The medical professional does not prescribe or authorize personal care services.

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

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding 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;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;
- Medical services;
- Home delivered meals;
- Adult day care.

*Adult Services Manual (ASM) 363, 9-1-2008,  
Pages 2-15 of 24*

In the present case, the Appellant was only authorized for HHS hours with the IADLs of housework, shopping, laundry and meal preparation. (Exhibit 1, page 14) On ██████████ ██████████, the Appellant's doctor completed a DHS-54A Medical Needs form certifying that the Appellant has a medical need for assistance with meal preparation, laundry and housework. (Exhibit 4)

On [REDACTED], the ASW made a visit to the Appellant's home to conduct a Home Help Services assessment. The Appellant's provider was not available for the home visit, and had not been available for the prior home visit. The Appellant was guarded when asked for details about his functional abilities and needs for assistance. The ASW observed the Appellant to be independent with mobility and transferring. The ASW understood the Appellant to be independent with Activities of Daily Living (ADLs), that he is able to drive and occasionally goes to the store. (Exhibit 1, pages 9, and 11-13, and ASW Testimony) Based on the available information, the ASW determined that the Appellant's HHS hours should be reduced. (Exhibit 1, pages 11-15) The ASW ranked the Appellant as a level 3 for shopping and meal preparation and a level 4 for housework and laundry. (Exhibit 1, page 12) On [REDACTED], the Department sent an Advance Negative Action Notice to the Appellant indicating that his HHS case would be reduced to [REDACTED] per month effective [REDACTED]. (Exhibit 1, pages 6-8)

The Appellant disagrees with the reductions and testified he has a hearing impairment and he misunderstood the ASW during the home visit. However, during the [REDACTED] [REDACTED], hearing proceedings, the Appellant stated that he can now hear very well. The Appellant acknowledged that he is independent with ADLs during the hearing proceedings. The Appellant stated that he can not lift over 10 pounds and he needs assistance with yard work, shopping, meal preparation, and housework. The Appellant was specifically asked about the IADLs by this ALJ. The Appellant initially provided testimony regarding the parts of these activities he is able to perform, but then decided he should not say anything further. (Appellant Testimony)

As noted by the ASW during the hearing proceedings, yard work is not an activity included in the HHS program. The above cited Department policy specifies maximum times that can be authorized for assistance with housework, shopping, laundry, and meal preparation. The policy further states that if fewer hours are needed that is what must be authorized. The Appellant is not totally dependant on someone else for the activities of housework, shopping, laundry, and meal preparation. The doctor did not certify a medical need for assistance with shopping. (Exhibit 4) The Appellant's testimony, before he decided not to say anything further, indicates that he is able to participate in these tasks, such as re-heating prepared meals, make a bowl of cereal, making a grocery list and putting away groceries. (Appellant Testimony) The evidence supports the reductions made to the Appellant's HHS case.

### **DECISION AND ORDER**

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



**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

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Colleen Lack  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 1/31/2012

**\*\*\* 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.