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

IN THE MATTER OF:

[redacted]

Appellant

Docket No. 2012-67162 HHS
Case No. [redacted]
Hearing Date: [redacted]

ADMINISTRATIVE LAW JUDGE: Jennifer Isiogu

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Appellant's request for a hearing. After due notice, a telephone hearing was held on the date indicated above. The Appellant was represented by her daughter, [redacted]. The Appellant was not present. Participants on behalf of the Department of Community Health (Department) included [redacted], Appeals and Review Officer, [redacted], Adult Services Supervisor and [redacted], Adult Services Worker.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Appellant was a Medicaid beneficiary and a recipient of Home Help Services (HHS).

2. The Appellant is diagnosed with multiple ailments which include: cardiac dysthymia, high blood pressure, congestive heart failure and IDDM. She reports glaucoma and arthritis as well.

3. On [redacted], the Appellant's Adult Services Worker completed a comprehensive assessment and concluded that the Appellant's HHS would be reduced because she no longer required physical assistance with bathing and mobility due to use of adaptive equipment inside of her home.

4. The Appellant's Adult Services Worker determined that the Appellant's monthly HHS payment would be reduced from $[redacted] to $[redacted].

5. On [redacted], the Department sent the Appellant notice that effective [redacted], the Appellant's HHS would be reduced.

6. 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. 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 c lient 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.

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 Needs	Complex care refers to conditions requiring intervention with special techniques and/or knowledge. These complex care tasks are 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 Dependent	Do **not** approve shopping, laundry, or light housecleaning, when a 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 (EHHS)	Expanded home help services exists if all basic home help services eligibility criteria are met and the assessment indicates 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 Department of	When the client's cost of care exceeds $1299.99 for any reason, the adult services specialist must submit a written request for

Community Health Approvals (MDCH). 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 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** 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 HHS policy for case reviews is found at ASM 155.

CASE REVIEWS

Independent living services (home help) cases must be reviewed every six months. A face-to-face contact is required with the client, in the home.
A face-to-face or phone contact must be made with the provider at six month review and redetermination to verify services are being furnished.
Note: If contact is made by phone, the provider must offer identifying information such as date of birth and the last four digits of their social security number. A face-to-face interview in the client's home or local DHS office must take place at the next review or redetermination.

Six Month Review Requirements

Requirements for the review contact must include:

- A review of the current comprehensive assessment and service plan.

- Verification of the client's Medicaid eligibility, when home help services are being paid.

- Follow-up collateral contacts with significant others to assess their role in the case plan, if applicable.

- Review of client satisfaction with the delivery of planned services.

- Reevaluation of the level of care to assure there are no duplication of services.

- Contact must be made with the care provider, either by phone or face-to-face, to verify services are being provided.

ASM 155, pp.1-2.

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.

ASM 101, pp. 3-4.

On [redacted], the Appellant's Adult Services Worker completed a comprehensive assessment and concluded that the Appellant's HHS should be reduced because she was using adaptive equipment in the home that eliminated her need for physical assistance with bathing and mobility. Specifically, she has a bath transfer bench and electric scooter she uses for mobility. She is able to get in and out of the scooter.

The Appellant is contesting the Department's determination that his HHS should be reduced because her daughter states she had to have a ramp installed so her mother could leave the home. She stated on the record she was not contesting the reduction for bathing assistance. She also stated her mother is able to get in and out of the electric scooter herself. She further testified her mother will accompany her to the store and has to use the electric scooters at the store in order to get around.

This ALJ has considered the evidence of record. The evidence supporting the Department's reductions is sufficient to sustain the change in payment. The Appellant has use of adaptive equipment that has reduced her dependence on the physical assistance from others specifically in the areas of bathing and mobility. While she is obviously challenged walking, she is mobile without physical assistance from another due to use of an electric scooter inside of her home. The uncontested evidence is that she is able to get in and out of it herself, also. Because she is able to get around in her home with the use of this scooter, it is not appropriate to authorize payment assistance for this task, despite the fact that her ambulation is impaired to the extent she requires use of the scooter. HHS payment authorization is only appropriate for assistance actually necessary and being provided. Here, the evidence supports the ASW's determination that assistance with mobility was not being provided. Use of a ramp to exit the home, in and of itself is not evidence of physical assistance with mobility.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly determined that the Appellant's HHS should be reduced.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did properly determine that the Appellant' HHS should be reduced. Accordingly, the Department's Home Help Services decision is AFFIRMED

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Jennifer Isiogu
Administrative Law Judge
For James K. Haveman, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 1/2/2013

NOTICE: The Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision 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 date of the rehearing decision.

Appellant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
    - misapplication of manual policy or law in the hearing decision,
    - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the Appellant:
    - the failure of the ALJ to address other relevant issues in the hearing decision.

The request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearing System
Reconsideration/Rehearing Request
P. O. Box 30763
Lansing, Michigan 48909