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) 373-4147

IN THE MATTER OF:

Docket No. 2013-79003 HHS
Case 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 . Appellant's sister, guardian and caregiver, , appeared and testified on Appellant's behalf. Appellant also appeared but did not testify. , Appeals Review Officer, represented the Department of Community Health. , Adult Services Supervisor and , Adult Services Worker, appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's request for additional Home Help Services (HHS)?

FINDINGS OF FACT

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

1. Appellant is a year-old Medicaid beneficiary who has been diagnosed with Down's syndrome, #9 deletion. (Exhibit A, p 9)

2. In , Appellant applied for HHS. (Exhibit A, p 10)

3. As part of the application and assessment process, an Adult Services Worker conducted a home visit with Appellant and her guardian on . (Exhibit A, p 16; Testimony)

4. Appellant lives with her sister and guardian. (Exhibit A, p 16; Testimony)

5. Following the home visit, Appellant's application for HHS was granted. Appellant was to receive $ HHS hours per month. (Exhibit A, p 13; Testimony)

6. On , the Department sent Appellant a Services and Payment Approval Notice. The start date of payments was

. (Exhibit A, p 13)

7. On , the Department received Appellant's Request for Hearing. In that request, Appellant stated that she wanted a hearing with respect to her HHS payment. (Exhibit 1)

8. On , the Department sent Appellant a Services and Payment Approval Notice, which increased her HHS payment to 69 hours and 13 minutes per moth, for a total payment of $ per month. (Exhibit A, pp 12, 18)

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 Manuals 361 (6-1-07) (hereinafter "ASM 361") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the issues of what services are included in Home Help Services and how such services are assessed:

> **Home Help Payment Services**
>
> Home help services (HHS, or personal care services) are non-specialized personal care service activities provided under ILS to persons who meet eligibility requirements.
>
> 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.
>
> Personal care services which are eligible for Title XIX funding are limited to:
>
> Activities of Daily Living (ADL)
>
> • Eating.

- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

(ASM 361, page 2 of 5)

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (DHS-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.

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

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.

(ASM 363, pages 2-4 of 24)

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.

(ASM 363, page 9 of 24)

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.

(ASM 363, pages 14-15 of 24)

As discussed above, after a home visit on , Appellant was approved for a HHS total monthly care cost of $. Appellant's guardian subsequently appealed that decision, alleging that she requires additional time with respect to the tasks she was approved for.

The Department's Adult Services Worker (ASW) testified that she approved Appellant for the maximum hours of HHS for all services except for dressing, because Appellant can do some dressing herself, and eating, because not all of Appellant's meals need to be cut up. The Department's ASW indicated that she also prorated the tasks of housework and shopping because those are shared tasks for the household. The Department's ASW indicated that the HHS program is not intended to provide 24/7 service and that she referred Appellant's guardian to , the local Community Mental Health authority, for additional services. The Department's ASW testified that the HHS program also does not pay for supervision or for transportation to medical appointments, two areas in which Appellant's guardian was seeking additional hours.

Appellant's guardian testified that she understood that the ASW was just doing her job and that she had done so appropriately. However, Appellant's guardian indicated that the time allotted for the tasks involved in caring for Appellant were insufficient. Appellant's guardian requested a minimum of 40 hours per week of HHS because she cares for her sister at least 40 hours per week, usually more. Appellant's guardian testified that Appellant misses a lot of school, so she is left to care for her during the day on those days also. Appellant's guardian testified that Appellant can do very little for herself and that she cannot be left alone. Appellant's guardian testified that she also has a two and a half year old daughter that she has to care for.

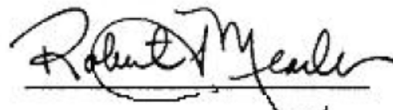
Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence, that she requires more HHS than she was approved for. Appellant is approved for the maximum amount of HHS hours offered by the program in most areas. Appellant was given referrals to other agencies that could provide assistance and Appellant's guardian was encouraged to follow up on those referrals. The Department's Adult Services Worker properly calculated Appellant's HHS based on policy and the information provided by Appellant at their meeting.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

Date Mailed: 3/29/2013

***** 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 receipt of the rehearing decision.