

**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:

██████████,

Appellant

Docket No. 2012-17590 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 without representation. Her witness was her nephew, ██████████. ██████████, Appeals Review Officer, represented the Department. Her witnesses were ██████████, ASW and ██████████, ASW supervisor.

ISSUE

Did the department properly establish the Appellant's 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. At the time of hearing the Appellant is a disabled, ██████-year-old Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with psoriasis, Lupus, kidney problems, liver problems and the sequela of steel rod placement in her back. (Department's Exhibit A, p. 10)
3. On ██████████, the ASW (██████████) sent the Appellant a Services and Payment Approval Notice establishing HHS payment at the amount of ██████████ [14:03 hours] per month. Choreprovider logs were included therein. (Department's Exhibit A, pp. 2 and 5)

4. On ██████████ the ASW set the Appellant a Service and Payment Approval [services only DHS 1210B] advising the Appellant that her new ASW would be specialist ██████████. (Department's Exhibit A, p. 9)
5. The ASW testified that on face-to-face home visit ██████████ she observed the Appellant residence to be neat and clean. The Appellant then explained her physical limitations in particular her inability to self bathe, dress, medicate or do laundry owing to skin sensitivity and negative reaction from detergent. (Department's Exhibit A, pp. 2 and 7)
6. Both the Appellant and her witness testified that the Appellant wears white gloves as ordered by her physician. (See Testimony)
7. The Appellant's witness said the Appellant stays in bed often because she is ill and that when he observes her walk to the bathroom with her swollen feet "...they are always busting open." (See Testimony)
8. The limits of the HHS program were explained by the Department witness at hearing. It was unclear owing to the Appellant's narrative testimony to determine if her Lupus diagnosis was new or long standing. (See Testimony)
9. The instant appeal was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on ██████████.

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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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.

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 customer in his/her place of residence.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the customer'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 re-determination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the agency 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 customer'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.

Adult Service Manual (ASM), §363,
pp. 2, 3 of 24, 9-1-2008.

Service Plan Development

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

- 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).

Supra, p. 5 of 24.

The Department witness testified that on in-home assessment the evidence showed that the Appellant was living in a neat and clean environment. The ASW testified that however she did it – the Appellant said she was able to bathe herself. On testimony of the Appellant she said that she “washes up at the sink.”

The ASW testified that she approved HHS for the Appellant based on her in-home assessment and observations. The ASW testified that the Appellant needed hands-on help with the IADLs of housework, laundry, shopping and meal preparation. No personal care services were approved and the new interim policy concerning HHS eligibility criteria was not yet in effect - so its requirement for the beneficiary to have at least one ADL at a ranking of 3 or greater was not explained to the Appellant.

The Appellant's witness said that he observed the Appellant wears gloves and walks with very swollen feet. The Appellant said she takes many medications and has Lupus.

On review the Home Help Services program is not a static provider of payment. It is anticipated that benefit levels will wax and wane during the course of HHS enrollment. This is necessary to account for or adjust to changes in the client's condition for the better or the worse.

**Docket No. 2012-17590 HHS
Decision & Order**

The Administrative Law Judge finds that the comprehensive assessment was accurate when made and that it was drawn according to policy then in place.

Based on the information presented at hearing if there has been a change in medical condition – such as a newly diagnosed case of Lupus referenced by the Appellant in her testimony – it is her responsibility to contact her HHS worker to advise of this medical development to seek reassessment.

The Appellant has failed to preponderate her burden of proof that the Department, although finding her eligible for the HHS program, improperly assessed the necessary level of home help service.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly assessed the Appellant on in-home face-to-face assessment on [REDACTED].

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 4/5/2012

***** NOTICE *****

The State Office of Administrative Hearings and Rules 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 State Office of Administrative Hearings and Rules 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.