

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-22458HHS
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 was present and testified. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker, appeared as a witness for the Department.

ISSUE

Did the Department properly reduce 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. The Appellant is a ██████-year-old Medicaid beneficiary.
2. The Appellant has a history of right leg amputation and chronic hip pain.
3. On ██████████, the Appellant's Adult Services Worker went to the Appellant's ██████████, MI home and completed a HHS in-home assessment.
4. Subsequently the Appellant's Adult Services Worker determined that the Appellant had a medical need for 7 days per week of transferring, mobility, toileting, meal preparation, housework, laundry, and shopping or ██████████ per month of HHS.
5. On ██████████, the Appellant's HHS provider, telephoned the Appellant's Adult Services Worker, ██████████ and told ██████████ that the provider was living in ██████████ but would drive to ██████████ 4 days per

week to provide the Appellant's HHS. ██████████ confirmed with the provider that the provider was providing assistance with bathing but not toileting. The provider also indicated he was assisting with all Instrumental Activities of Daily Living (IADLs)

6. On ██████████, the Department sent the Appellant an Advance Action Notice in which it indicated that effective ██████████, the Appellant's HHS would be reduced to ██████████ to reflect the four days a week HHS was being provided.
7. On ██████████, 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, page 1-3 provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

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. 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.

ASM 120, pp 1-3

The Appellant is a █████ year-old Medicaid beneficiary with a history of right leg amputation and chronic hip pain. The Appellant resides in his █████, MI home. █████ is the Appellant's approved HHS provider. On █████, the Appellant's Adult Services Worker went to the Appellant's █████, MI home and completed an HHS in home assessment. Subsequently the Appellant's Adult Services Worker determined that the Appellant had a medical need for 7 days per week of transferring, mobility, toileting, meal preparation, housework, laundry, and shopping or █████ per month of HHS. On █████, █████ telephoned the Appellant's current Adult Services Worker, █████, and informed her that he was living in █████, MI. and was providing HHS to the Appellant 4 days per week and was not assisting the Appellant with toileting. Based on that information █████ recalculated the Appellant's HHS by reducing the Appellant's authorized HHS from 7 days per week to 4 days per week and by removing the authorization for assistance with toileting.

█████ testified that she reduced the Appellant's authorized HHS from █████ per month to █████ per month to reflect the actual HHS being provided to the Appellant. █████ testified that when she spoke with █████ on the telephone he indicated that he was living in █████ but would commute to █████ 4 days per week to provide the Appellant's HHS. █████ testified that █████ did not indicate that he would commute to █████ 7 days per week. █████ also testified that █████ informed her that he was not assisting the Appellant with toileting.

The Appellant testified that his provider is living in █████ temporarily but is providing services 7 days per week. The Appellant testified that █████ told him that he would drive to █████ during the week and on weekends to provide the Appellant's HHS 6 days per week. The Appellant also testified that his provider assists the Appellant with toileting.

In response █████ testified that █████ told her that he was not assisting the Appellant with toileting and was providing HHS only 4 days per week. █████ testified that it is a long drive to and from █████ to █████ and the cost of travel 6-7 days per week would consume most of the amount the provider was being paid. █████ testified that she had no reason to doubt what she was told by the Appellant's provider.

█████ credibility testified that the Appellant's provider was providing the Appellant's HHS 4 days per week and the provider was not assisting with toileting. The facts show that it would not be financially worthwhile for the Appellant's provider to drive 180 miles round trip each day to provide the Appellant's HHS.

[REDACTED]
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I find that [REDACTED] properly reduced the Appellant HHS to reflect 4 days per week of HHS and properly removed toileting as an approved task.

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 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:

[REDACTED]

Date Mailed: 3/28/2012

***** 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.