

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

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IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 2012-24696 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, represented himself and testified. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker, testified for the Department. The Appellant's Home Help Services provider ██████████ testified for the Appellant.

ISSUE

Did the Department properly terminate the Appellant's Home Help Services (HHS) payments?

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 Medicaid beneficiary who resides alone in his ██████████, Michigan apartment.
2. The Appellant has been diagnosed with cervical lumbar myositis, costochondritis, gait disturbance, and groin tendonitis. The Appellant claims to have a torn rotator cuff and is attending physical therapy.
3. The Appellant was approved for and is receiving Home Help Services (HHS) for assistance with, housework, laundry, shopping, and meal preparation.
4. On ██████████, the Appellant's Adult Services Worker, ██████████, went to the Appellant's apartment and completed an in-home

assessment with the Appellant. During the assessment, the Appellant told ██████████ that he still have physical limitations due to his diagnosed conditions and reported that there was no change in the services provided by his HHS provider.

5. On ██████████ concluded that the Appellant was physically able to perform all ADLs and did not require hands on assistance.
6. On ██████████, the Appellant and his HHS provider met with ██████████ in her office.
7. On ██████████, ██████████ sent the Appellant an Advance Action Notice which informed the Appellant that effective ██████████, the Appellant's HHS would be terminated.
8. On ██████████, the Appellant met with ██████████ in her office to discuss his HHS case. The Appellant told ██████████ that he needed hands on assistance with bathing. In response ██████████ gave the Appellant a DHS 54-A Medical Needs form and asked the Appellant to have his physician complete the form. On ██████████, the Appellant's physician completed the DHS 54-A, but the Appellant did not provide the completed form to ██████████.
9. 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. The Department of Human Services issued Interim Policy Bulletin ASB 2011-001 with an effective date of October 1, 2011. This Interim Policy limits HHS eligibility for Medicaid beneficiaries with a medical need for assistance with one or more ADLs at a ranking of 3 or higher. On

January 1, 2012, the Department of Human Services issued Adult Services Manual 120 which incorporated the provisions of Interim Policy Bulletin ASB 2011-001.

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

The evidence presented shows that the Appellant was approved for ██████████ per month of HHS for assistance with housework, laundry, meal preparation, and shopping. The evidence also shows that on ██████████, the Appellant's Adult Services Worker, ██████████ conducted a face-to-face home visit with the Appellant. ██████████ testified that based on the information provided by the Appellant, and her observations, she concluded that the Appellant did not require hands on assistance with ADLs.

██████████ testified that the Appellant's previously approved HHS included no payments for ADL care. ██████████ testified that during her assessment the Appellant told ██████████ that he continued to need assistance with IADLs. ██████████ testified that during her in-home assessment the Appellant told her that there was no change in his need for HHS. ██████████ testified that the Appellant did not tell her at that time he needed assistance with bathing. ██████████ testified that she reviewed the information contained in the case file and obtained during her in-home assessment and concluded that the Appellant had no medical need for assistance with his ADLs. ██████████ testified that on ██████████, she met with the Appellant and provided him with a DHS 54-A Medical Needs form so the Appellant's physician could document any medical need for ADL care. ██████████ testified that the Appellant did not return the form to her.

Docket No. 2012-24696HHS
Decision and Order

The Appellant testified that he needs assistance with his ADLs. The Appellant testified that his HHS provider assists him with bathing. The Appellant testified that he is unable to bathe himself due to limited range of motion in his arms. The Appellant testified that he has a torn rotator cuff and is not able to move his arms. In addition the Appellant testified that he has a back condition and back pain that prevents him from bathing. The Appellant testified that he needs assistance with his ADL of bathing and with his IADLs and would like his HHS continued.

The Appellant's HHS provider, [REDACTED], testified that he provides hands on assistance to the Appellant with bathing. The Appellant's HHS provider testified that he has submitted HHS provider logs which show that he has been providing assistance with the Appellant's bathing. [REDACTED] reviewed the Appellant's case file and provider logs at the hearing and asked the Appellant's provider to identify the logs which showed he was providing assistance with bathing. The Appellant's provider then testified that he thought bathing was included in the IADL task of housekeeping and agreed that he had not submitted HHS provider logs which showed he was providing the Appellant with hands on assistance with bathing.

In response to the Appellant's testimony, [REDACTED] testified that the Appellant during the assessment the Appellant told her there was no change in his need for HHS. [REDACTED] testified that the Appellant did not indicate that he needed assistance with bathing until he met with her in her office. [REDACTED] testified that she provided him with a new DHS 54-A and the Appellant failed to return the form. [REDACTED] testified that she terminated the Appellant's HHS because the October 1, 2011, policy change requires a termination when a HHS client requires no hands on assistance with ADLs. [REDACTED] testified that she could not approve the Appellant for IADLs because the Appellant did not have a medical need for hands on assistance with any ADL at a level 3 or higher.

The evidence presented shows that the Appellant's pre-[REDACTED] HHS assessment found that the Appellant had no medical need for hands on assistance with his ADLs. The evidence also shows that in [REDACTED], [REDACTED] completed a face-to-face HHS assessment and properly concluded that the Appellant did not require hands on assistance with his ADLs. The evidence provided by the Appellant's physician shows that the Appellant has a back condition and tendonitis in his shoulder. The same evidence shows that the Appellant is receiving physical therapy but there is no evidence that the Appellant has a torn rotator cuff. The evidence presented also shows that the Appellant was not approved for nor was he receiving HHS for assistance with the Appellant's ADLs for the year before the Appellant's [REDACTED] assessment and was able to perform his ADLs without hands on assistance.

Therefore, based on evidence presented and the October 1, 2011, change in DHS policy, I find that [REDACTED] properly terminated the Appellant's HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined that the Appellant was ineligible for HHS and properly terminated 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:



Date Mailed: 4/11/2012

***** 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.