

**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:

Docket No. 2012-25512 HHS

██████████

██████████

██████████

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 ██████████. The Appellant appeared, represented herself and testified. ██████████, represented the Department of Community Health (Department). ██████████ testified for the Department. ██████████ testified for the Appellant.

ISSUE

Did the Department properly deny the Appellant's application for 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 Medicaid beneficiary who resides alone in her ██████████ ██████████
2. The Appellant has been diagnosed with chronic back pain, and Rheumatoid arthritis. The Appellant claims to a general deterioration of all the bones in her body.
3. The Appellant applied for Home Help Services (HHS) for assistance with all her Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs), 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 she has physical limitations due to her diagnosed conditions and reported that she needs assistance with laundry, housekeeping, meal preparation and shopping. The Appellant told ██████████ that she could bathe, groom and dress herself. At the time of the visit the Appellant's apartment was well kept, the Appellant ambulated unassisted and with no apparent pain.

5. On ██████████, ██████████ s telephoned the Appellant's physician ██████████ ██████████ to obtain information regarding a ██████████ 11, DHS 54-A Medical Needs form. ██████████ told ██████████ that the Appellant needed assistance with meal preparation, shopping, laundry, and housework but did not need hands on assistance with eating, toileting, bathing, grooming, dressing, transferring, mobility and taking medications. ██████████ indicated that the Appellant completed the 54-A and ██████████ wrote no and yes next to the personal care activities listed.
6. On ██████████, ██████████ concluded that the Appellant was physically able to perform all ADLs and did not require hands on assistance.
7. On ██████████, ██████████ sent the Appellant an Advance Action Notice which informed the Appellant that her HHS application was denied because the Appellant did not have a medical need for hands on assistance with her ADLs.
8. On ██████████ the Appellant telephoned ██████████ and told ██████████ that she needed HHS.
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.

██████████
Docket No. 2012-25512HHS
Decision and Order

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, pp1-3.

The evidence presented shows that the Appellant applied for HHS and on ██████████ an in-home face-to-face assessment was completed. ██████████ testified that based on the information provided by the Appellant, and ██████████ observations, she concluded that the Appellant did not require hands on assistance with ADLs.

██████████ testified that during her assessment the Appellant told ██████████ that she could bathe, dress, and groom herself but needed assistance with laundry, meal preparation, housework, and shopping. ██████████ testified that the Appellant did not tell her at that time she needed assistance with bathing, dressing or grooming. ██████████ testified that during her in-home assessment the Appellant appeared to have full range of motion of her hands arms and legs could ambulate unassisted with no apparent pain. ██████████ concluded that the Appellant had no medical need for assistance with her ADLs. ██████████ testified that on ██████████ she telephoned the Appellant's physician ██████████ to clarify information provided on the DHS-54A Medical Needs form. ██████████ testified that ██████████ indicated that the Appellant completed the DHS 54-A, but ██████████ indicated on the form that the Appellant did not require assistance with ADLs. ██████████ testified that based on the information obtained during the in-home assessment and the information obtained from ██████████ she concluded that the

██████████
Docket No. 2012-25512HHS
Decision and Order

Appellant did not have a medical need for hands on assistance with any ADL. Therefore on ██████████, ██████████ sent the Appellant a Negative Action Notice informing her that the Appellant's HHS application was denied.

The Appellant testified that she needs assistance with the ADLs of bathing, dressing and grooming. The Appellant testified that all of the bones in her body have deteriorated and she is unable to lift her arm. The Appellant testified that she can do some tasks but not all. In addition the Appellant testified that she has a back condition and severe back pain that prevents her from bathing and walking unassisted. The Appellant testified that her back pain was so severe that Medicare approved breast reduction surgery. The Appellant testified that the surgery relieved some of her back pain but she still has pain. The Appellant testified that she is waiting for Medicare to approve a scooter so she does not have to walk in pain. The Appellant testified that she needs assistance with her ADL of bathing and with her IADLs and does not know why ██████████ was not truthful about the Appellant's physical condition and the information provided by ██████████.

The Appellant indicated that she wanted her HHS provider, ██████████, to testify about the Appellant's need for services. ██████████ testified that he has known the Appellant for many years and that he provides hands on free assistance to the Appellant with bathing, dressing, and drives the Appellant around the community. ██████████ testified that the Appellant is in constant pain and is unable to take care of herself.

██████████ testified that the Appellant was not approved for HHS and that ██████████ is not the Appellant's HHS provider. ██████████ testified that if ██████████ is providing services he is doing so without authorization from the HHS program. In response to the Appellant's testimony, ██████████ testified that the Appellant, during the assessment, told ██████████ that she did not need assistance with her ADLs and only needed assistance with IADLs. ██████████ testified that the Appellant did not indicate that she needed assistance with bathing until the Appellant telephoned her. ██████████ testified that she denied the Appellant's HHS application because the ██████████ policy change does not permit the authorization of HHS when a HHS applicant or recipient requires no hands on assistance with ADLs. ██████████ 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 also shows that in ██████████, ██████████ completed a face-to-face HHS assessment and properly concluded that the Appellant did not require hands on assistance with her ADLs. The evidence provided by the Appellant's physician shows that the Appellant has chronic back pain and no medical need for hands on assistance with ADLs. Therefore, based on evidence presented and the ██████████ change in DHS policy, I find that ██████████ properly denied the Appellant's application for 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 denied the Appellant's application for 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: 4-26-12

***** 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.