

**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. 2012-28774 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 telephone hearing was held on ██████████. The Appellant was present by telephone and testified. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker, appeared as a witness for the Department. ██████████, Adult Services Supervisor, was also present.

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 who resides alone in her ██████, MI apartment.
2. The Appellant has been diagnosed with Stage 4 ovarian cancer, diabetes and peripheral neuropathy. She has a history of heart attack and heart disease.
3. On ██████████, the Appellant's Adult Services Worker, ██████████, went to the Appellant's ██████████, MI apartment and completed a HHS in-home assessment. The Appellant's HHS provider was present. During the assessment the Appellant told ██████████ that her health was continuing to decline and she needed assistance with bathing and dressing. The Appellant and her provider told ██████████ that the Appellant continued to need assistance with housework, laundry, shopping

7 days per week. The Appellant's provider told [REDACTED] that she was preparing the Appellant's meals three days per week.

4. Subsequently the Appellant's Adult Services Worker reviewed the HHS provider logs for the months preceding the [REDACTED] assessment and determined that the Appellant had a medical need for HHS at the same level of the prior assessment in all areas except meal preparation. [REDACTED] reduced the Appellant's HHS for meal preparation from seven days to three days per week based on the information provided to her during the [REDACTED], in-home assessment.
5. On [REDACTED], the Department sent the Appellant an Advance Action Notice which indicated that effective [REDACTED], the Appellant's HHS would be reduced to [REDACTED] to reflect the three days a week HHS meal preparation.
6. On [REDACTED], 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 to 170. ASM 120, page 1-3 provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

INTRODUCTION

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.

Complex Care Complex care refers to conditions requiring intervention with special Needs techniques and/or knowledge. These complex care tasks are performed on client's whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating and feeding.
- Catheters or legs bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Peritoneal dialysis.
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

Time and Task

The specialist 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.

An assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). **The specialist must assess each task according to the actual time required for its completion.**

IADL Maximum

There are monthly maximum hour limits on all instrumental activities Allowable Hours of daily living 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.

Proration of IADLs

If the client does not require the maximum allowable hours for IADLs authorize only the amount of time needed for each task. Assessed hours for IADLs (except medications) must be prorated by **one half** in shared living arrangements where other adults reside in the home, as home help services are **only** for the benefit of the client.

Note: This does not include situations where others live in adjoining apartments/flats or in a separate home on shared property and there is no shared, common living area.

In shared living arrangements, where it can be **clearly** documented that IADLs for the eligible client are completed separately from others in the home, hours for IADLs do not need to be prorated.

Responsible Activities of daily living may be approved when the responsible Relative relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented/verified by a medical professional on the DHS-54A, Medical Needs form.

Legal

Do **not** approve shopping, laundry, or light housecleaning, when a Dependent responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Do **not** approve shopping, laundry or light housecleaning, when a legal dependent of the client (minors 15-17) resides in the home, **unless** they are unavailable or unable to provide these services.

Expanded Home Help Services

Expanded home help services exists if all basic home help Services eligibility criteria are met and the assessment indicates (**EHHS**) the client's needs are so extensive that the cost of care cannot be met within the monthly maximum payment level of \$549.99

Michigan

When the client's cost of care exceeds \$1299.99 for any reason, Department of the adult services specialist must submit a written request for Community approval to the Michigan Department of Community Health (MDCH).

Health Approvals

Follow the **Procedures for Submitting Expanded Home Help Requests** found on the Adult Services Home Page. Submit the request with all required documentation to:

Michigan Department of Community Health
Long Term Care Services Policy Section
Capital Commons Building, 6th Floor
P.O. Box 30479
Lansing, MI 48909

MDCH will provide written documentation (DCH-1785) of approval. A new request **must** be submitted to the Michigan Department of Community Health whenever there is an increase in the cost of care amount. A new request is **not** require if the cost of care decreases below the approved amount set by MDCH.

Note: If an expanded home help case closes and reopens within 90 days and the care cost remains the same, a new MDCH approval is **not** required.

The Appellant is a █████ year-old Medicaid beneficiary with a history of heart disease, heart attack, and diabetes. She currently is undergoing chemotherapy for Stage 4 ovarian cancer. The Appellant resides alone in her █████ MI apartment. On █████, the Appellant's Adult Services Worker went to the Appellant's apartment and completed an HHS in-home assessment. Subsequently the Appellant's Adult Services Worker, █████, determined that the Appellant had a medical need for seven days per week of bathing, dressing, housework, laundry, and shopping and a medical need for three days per week of meal preparation or █████ per month of HHS.

██████████ 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 during her █████ assessment the Appellant and the Appellant's HHS provider told █████ that the Appellant's provider was preparing the Appellant's meals three days per week. █████ testified that when she returned to her office she checked the HHS provider logs for the months before the █████ assessment and found that the information on the logs showed that meal preparation was being provided only three days per week. █████ testified that because meal preparation was only being provided three days of week she had no choice but to reduce the Appellant's meal preparation from seven days per week to three days per week.

The Appellant testified that her provider prepares the Appellant's meals but the Appellant often, due to her chemo therapy can't eat the meals. The Appellant testified that when her provider is in the home she prepares the Appellant's meals when the Appellant feels like eating. The Appellant testified that the HHS provider logs do not accurately show when the Appellant's provider is preparing meals. The Appellant testified that her provider told her that given the price of gas it would not be financial practical for the provider to drive to and from the Appellant's apartment for reduced pay. The Appellant testified that her provider is very reliable and provides good service and she does not want to lose her provider. The Appellant testified that her cancer is spreading and her health is declining and she needs more and not less HHS.

In response, █████ testified that during her █████ home visit both the Appellant and her provider told █████ that the Appellant's provider was preparing meals only three days per week and that information was consistent with the information provided on the HHS provider logs. █████ testified that her decision to reduce the Appellant's hours for meal preparation was based on information obtained months ago and if the Appellant's medical condition had changed that the new information would be considered and evaluated during the Appellant's six-month review. █████ testified that she believed that the Appellant's case was due soon for a six-month review.

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[REDACTED] credibility testified that the Appellant's provider was providing meal preparation to the Appellant's HHS three days per week and [REDACTED] testimony is consistent with the information provided on the HHS provider logs. The Appellant credibly testified that her health has declined since the [REDACTED] assessment and that her need for HHS is changing.

I find that [REDACTED], based on the information available to her at the time of the [REDACTED] HHS assessment, properly reduced the Appellant's HHS to reflect three days per week of meal preparation.

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: 5/2/2012

***** 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.