

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

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IN THE MATTER OF:

Docket No. 2012-34919 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 without representation. He had no witnesses. ██████████ Appeals Review Officer, represented the Department. Her witnesses were, ██████████, ASW supervisor and ██████████, ASW.

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 disabled ██████-year old Medicaid beneficiary. (Appellant's Exhibit #1)
2. The Appellant alleges disability and the need for HHS owing to an above the knee amputation, HTN, low back pain and phantom pain. (Department's Exhibit A, page 9 and Joint Ex. B)
3. The Appellant said that the reduction in HHS did not leave enough time to cover his necessary HHS services or to compensate the choreprovider for all she does. (See Testimony)
4. The Department's witness testified that the chore provider told her that she went to the Appellant's residence 4 days a week and did not bathe, dress or groom him. (See Testimony and Department's Exhibit A, page 8)

5. The Department witness testified that she made contact with the Appellant on [REDACTED], for an in-home assessment. While there, the ASW observed the Appellant ambulate, inventoried his medications and provided an "updated 54A medical needs form." (See Testimony Department's Exhibit A, page 8)
6. Department witness, ASW [REDACTED], sent the Appellant a "Negative Action" letter on [REDACTED], reducing services effective [REDACTED]. (Department's Exhibit A, pages 2, 4)
7. The Appellant's further appeal rights were contained in the "Negative Action" letter.
8. The request for hearing on the instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on [REDACTED] (Appellant's Exhibit #1)

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 (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 medical professional.

COMPREHENSIVE ASSESSMENT

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 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.

(Emphasis supplied)
Adult Service Manual (ASM), §120, page 1 of 6, 11-1-2011.

The Department witness testified that on in-home assessment she discovered the Appellant to have ability to ambulate from and about his wheelchair and was able to retrieve and inventory his medications. The chore provider was not present, but was interviewed later and told the ASW that she worked ████████ days a week ████████ and did not provide the ADL services of bathing, dressing and grooming.

The ASW said that she then adjusted the Appellant's home help to coincide with her face-to-face observations and the admissions of the choreprovider.

At hearing, an after acquired DHS-54A Medical Needs form was used by the Department in the questioning of the Appellant – it was admitted as Joint Exhibit #3. In that document the Appellant's physician recommends that the Appellant receive the ADLs of bathing, grooming and mobility. From the testimony of the ASW it would appear that the Appellant is sufficiently mobile, but question remains about the ADL of bathing.

It was not clear to the ALJ if the Appellant utilized the services of the choreprovider for actual bathing, transferring assistance in the bath [which was covered on reassessment] or simple standby service. If the Appellant has experienced a change in condition causing him to now require the ADL of bathing – it is his responsibility to advise his ASW and seek reassessment. However, standby assistance [observing and supervising] is not a covered service under the HHS program.

[REDACTED]
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On review, because the only reductions in HHS were the elimination of personal care items of grooming and dressing and the frequency of services the Appellant has not preponderated his burden of proof to establish department error in the reduction of his services. His choreprovider said she only serviced the Appellant [REDACTED] days a week, the Appellant confirmed that admission in his testimony. Her statement to the ASW was uncontested.

It is the province of the ASW to determine the extent of need for services; the ASM requires a periodic in-home, comprehensive assessment of HHS recipients. Based on her face-to-face review the Appellant remains eligible for the HHS program – but with a reduced time and task allotment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced the Appellant’s HHS.

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: 6-1-12

***** 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.