

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket

████████████████████

Case

No. 2012-39325 HHS

No.

████████████████

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 ██████████ ██████████
██████████ appeared on behalf of the Appellant, ██████████ who was present and testified. Her witnesses were, ██████████ ██████████ supports ██████████
██████████ provider. ██████████ represented the Department. Her witness was ██████████

ISSUE

Did the Department properly deny the Appellant's request for additional Home Help Services (██████████)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. At the time of hearing the Appellant is a disabled, ██████████ f ██████████ Medicaid beneficiary. (Appellant's Exhibit #1)
2. The Appellant is afflicted with ██████████ (Department's Exhibit A, p. 9)
3. At hearing it was uncontested that the Appellant was denied her request for a new assessment and consideration for ██████████ (Appellant's Exhibit #1 and Department's Exhibit A, p. 4 – and ██████████ See Testimony)

4. It was also uncontested that [REDACTED] the Appellant's annual comprehensive assessment was supposed to have taken place in [REDACTED]. It did not occur. (See [REDACTED].)
5. The testimony established that the Appellant was no longer participating in the [REDACTED] provided day program because she is undergoing therapy – at home. (See Testimony)
6. The instant appeal was received by the [REDACTED] [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 [REDACTED]. 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 [REDACTED] 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.

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 [REDACTED], 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.

¹ Believed to be OT, PT and speech.

- 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.

Furthermore, [REDACTED] and the [REDACTED] directs the [REDACTED] and service users with the following criteria regarding [REDACTED] and coordination of services:

Community Living Supports (CLS)

Community Living Supports are used to increase or maintain personal self-sufficiency, facilitating an individual's achievement of his goals of community inclusion and participation, independence or productivity. The supports may be provided in the participant's residence or in community settings (including, but not limited to, libraries, city pools, camps, etc.).

Coverage includes:

- Assisting, reminding, observing, guiding and/or training in the following activities:
 - meal preparation
 - laundry
 - routine, seasonal, and heavy household care and maintenance
 - activities of daily living (e.g., bathing, eating, dressing, personal hygiene)
 - shopping for food and other necessities of daily living

CLS services may not supplant state plan services, e.g., Personal Care (assistance with ADLs in a certified specialized residential setting) and Home Help or Expanded Home Help (assistance in the individual's own, unlicensed home with meal preparation, laundry, routine household care and maintenance, activities of daily living and shopping). If such assistance appears to be needed, the beneficiary must request Home Help and, if necessary, Expanded Home Help from the Department of Human Services (DHS). CLS may be used for those activities while the beneficiary awaits determination by DHS of the amount, scope and duration of Home Help or Expanded Home Help. If the beneficiary requests it, the PIHP case manager or supports coordinator must assist him/her in requesting Home Help or in filling out and sending a request for Fair Hearing when the beneficiary believes that the DHS authorization of amount, scope and duration of Home Help does not appear to reflect the beneficiary's needs based on the findings of the DHS assessment.

. . . . [Omitted by ALJ]

CLS assistance with meal preparation, laundry, routine household care and maintenance, activities of daily living and/or shopping may be used to complement Home Help or Expanded Home Help services when the individual's needs for this assistance have been officially determined to exceed DHS's allowable parameters. CLS may also be used for those activities while the beneficiary awaits the decision from the Fair Hearing of the appeal of a DHS decision. Reminding, observing, guiding, and/or training of these activities are CLS coverages that do not supplant Home Help or Expanded Home Help. (Emphasis supplied)

MPM, Mental Health [REDACTED], April 1, 2012, pp. 108-109

COORDINATION [REDACTED] PARTNERSHIPS:

The adult services specialist has a critical role in developing and maintaining partnerships with community resources.

To facilitate these partnerships the adult services specialist will:

- Advocate for programs to address the needs of clients.
- Emphasize client choice and quality outcomes.
- Encourage access and availability of supportive services.

Work cooperatively with other agencies to ensure effective coordination of services.

Coordinate available resources with home help services in developing a services plan that addresses the full range of client needs.

Do **not** authorize home help services if another resource is providing the same service at the same time.

ASM §125, Coordination... November 1, 2011, page 1 of 10.

The Department witness testified that the ████████ did not conduct the required comprehensive assessment in ████████ – she added that the Department had not stopped paying ████████.

The Appellant's many witnesses testified to the same point that the Appellant is now home alone owing to her new therapy issues and that this is a dangerous situation – in addition to her deteriorating physical condition.

At hearing no one knew the scope of the services provided by ████████ – apparently owing to ████████ reticence to release such data typically found in the Appellant's individual plan of care.

On review, although important, the issue today is not whether the Appellant requires a more restrictive environment or additional hours from one provider over another, but rather why in the face of a deteriorating change in condition and a properly placed request the Appellant was not reassessed and then evaluated for ████████?

Simply not doing the comprehensive assessment is not an option and confounds the intent of the Medicaid regulations under Section 17 to provide the Appellant with self-sufficiency, community inclusion, independence, productivity and community participation. Avoidance of duplicated service is an important goal – but it is not the only criteria for the ████████ to consider in the implementation of the Appellant's service plan. *Supra*

[REDACTED]
Docket No. 2012-39325
Decision and Order

The Appellant did preponderate that the Department erred in not conducting her annual comprehensive assessment. The worker is required to perform a face-to-face comprehensive assessment in the Appellant's home when needed or at specified intervals.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department failed to provide a comprehensive assessment of the Appellant.

IT IS THEREFORE ORDERED that:

The Department's decision is REVERSED.

IT IS FURTHER ORDERED that:

The Department conducts a comprehensive assessment of the Appellant within 30-days receipt of this decision and order and then initiate coordination of services between [REDACTED] and [REDACTED] if they have not already done so.

Dale Malewska
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: _____

***** 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.