

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-46184HHS

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████. The Appellant appeared without representation. Her witnesses included, ██████████, choreprovider and ██████████, ██████████ the provider agency.

██████████, R.N., Appeals Review Officer, represented the Department of Community Health. Her witnesses were ██████████, ASW and ██████████, ASW supervisor.

ISSUE

Did the Department properly reduce Home Help Services (HHS) payments to the Appellant?

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.
2. The Appellant is afflicted with RA, venous insufficiency, migraine headache, chronic pain and right shoulder pain. (Department's Exhibit A, pp. 8, 9 and 34)
3. The Appellant receives payment assistance for some Activities of Daily Living and Instrumental Activities of Daily Living, through the Department's Home Help Services Program.

4. The Appellant receives HHS program assistance for the tasks of bathing, grooming, dressing, transferring, mobility, housework, laundry, shopping and meal preparation. (Department's Exhibit A, p. 16)
5. The ASW conducted an in-home assessment of the Appellant on ██████████. (Department's Exhibit A, p. 11)
6. The ASW proposed a reduction in HHS in the areas of bathing, grooming, dressing, and laundry. The ADL of mobility was eliminated. (Department's Exhibit A, p. 16)
7. The Appellant testified that she needed additional time for all of her ADLs and IADLs. (See Testimony)
8. The ASW sent the DHS 1212 Advance Negative Action Notice on ██████████, reducing the HHS tasks (above) effective ██████████. (See Testimony and Department's Exhibit A, p. 16)
9. While out driving the ASW reported that she observed the Appellant traversing a snow covered sidewalk – while using her cane. She added that she also saw the Appellant negotiate a steep snow bank - without assistance or use of the cane. (See Testimony)
10. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) on ██████████

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 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, 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 less need for the tasks of bathing, grooming, dressing and laundry. She testified that she eliminated the task of mobility as the Appellant demonstrated no need for such service on in-home assessment.

The testimony of both the ASW and the Appellant supported the idea that the Appellant needed assistance with the ADLs of grooming and dressing, but largely limited to hair combing and assistance with getting a shirt over her head and pants over her feet—those ADLs were reduced to reflect decreased need for those services.

Bathing, an important service for the Appellant, was slightly reduced; but allocated over 7 days instead of the previous allocation of 4 days. The ADL of transferring was not disturbed.

The Appellant explained her mobility need as most necessary when she was outside of the home. She disputed the observation of the ASW who reported that she saw the Appellant walking down the street because the testimony suggested it was a Monday morning observation and the Appellant was adamant that she had other business on Mondays.

The ASW also explained that the Appellant had ability to do some light housework, some laundry chores, occasional shopping and light meal preparation, although she still needs some residual assistance with those IADLs. Accordingly, she reduced laundry, but left housework, meal preparation and shopping undisturbed.

The following items[s] summarize the ADL[s] and the ALJ's observation:

- There were three minor reductions in personal care services. The ADLs of bathing, grooming and dressing were decreased, respectively from 10 minutes a day for 4 days a week to 5 minutes a day for 7 days a week; 8 minutes a day for 4 days a week to 2 minutes for 7 days a week; seven minutes a day 4-days a week to 4 minutes for 7 days a week.
- The personal care task of transferring was undisturbed, but the ASW eliminated the personal care task of mobility – as the Appellant's comments concerned mobility outside of the home; which is not an HHS covered service. These services reductions [albeit minor] did allow the Appellant the utility of daily care.

The following items summarize the IADL status and the ALJ's agreement:

- Laundry was properly reduced from 1:38 minutes to 1:25 minutes, one day a week as the Appellant acknowledged to the ASW that she can do basic clothes folding duty.

On review of the testimony and evidence, the Administrative Law Judge finds that the comprehensive assessment was properly drawn. The most pointed debate came on the issue of provider logs; which was resolved during the course of the hearing.

The only reductions in HHS were the personal care items of grooming, dressing and bathing and the IADL of laundry, based on the credible observations of the ASW and the comments of the Appellant on in-home assessment.

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 the ASW's face-to-face review, the Appellant remains eligible for the HHS program, but with a modestly reduced time and task allotment.

The Appellant did not meet her burden of proof.

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 HHS payment.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

/s/

Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:



Date Mailed: 9/20/12

***** 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.