

4. The Appellant resides with his [REDACTED]. The number of [REDACTED] members in the home is in dispute.
5. The Appellant is ambulatory. He made use of a cane at the home call but not at hearing.
6. The [REDACTED] form which provides the diagnosis listed above does not explicitly certify the Appellant has a medical need for assistance with any activity of daily living or instrumental activity of daily living. The tasks of shopping, laundry and housework, which are listed below the area asking whether the provider makes such a certification, are circled.
7. The [REDACTED] assigned to perform a comprehensive assessment completed the same at a home call [REDACTED].
8. The [REDACTED] determined the Appellant needed assistance in and out of the bathtub due to his reliance on a cane for ambulation and approved limited assistance for bathing, housework, laundry, shopping, meal preparation and medication administration.
9. The [REDACTED] assigned a functional rank of 3 for the tasks of bathing, housework, shopping, laundry and meal preparation because her assessment determined the Appellant's need for physical assistance is minimal.
10. The [REDACTED] determined the Appellant's needs were limited and also pro-rated the assistance for instrumental activities of daily living because he resides in shared household. Specifically, she allowed for 52 minutes per month housework assistance, 1 hour per month laundry assistance, 43 minutes per month shopping assistance and 5 hours 1 minute per month meal preparation assistance.
11. Contrary to what she was told at the assessment, the [REDACTED] learned from [REDACTED] records that several [REDACTED] members were reportedly living in the home with the Appellant and had open assistance cases at the same address.
12. The [REDACTED] pro-rated the meal preparation assistance allotted by the number of adults residing in the home (5) and allowed for over 1 hour per week of assistance with the task, for a total of 5 hours per month.
13. On [REDACTED] the Department sent the Appellant an Approval Notice indicating he had been authorized to receive \$149.96 per month in [REDACTED] assistance payments for a provider. The effective date of the approval was [REDACTED].

14. On [REDACTED] the [REDACTED] received the Appellant's request for hearing.

CONCLUSIONS OF LAW

The [REDACTED] 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.

[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.

Adult Services Manual (ASM 120, 11-1-2011), pages 2-5 of 6 addresses the adult services comprehensive assessment:

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 will 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-26, 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. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS 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 HHS 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 even with human assistance and/or assistive technology.

HHS payments may only be authorized for needs assessed at the 3 level 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.

Example: Ms. Smith is assessed at a level 4 for bathing however she refuses to receive assistance. Ms. Smith would be eligible to receive assistance with IADLs if the assessment determined a need at a level 3 or greater.

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.

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.**

Example: A client needs assistance with cutting up food. The specialist would only pay for the time required to cut the food and not the full amount of time allotted under the RTS for eating.

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs 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 hour 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.

Example: Client has special dietary needs and meals are prepared separately; client is incontinent of bowel and/or bladder and laundry is completed separately; client's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc.

*Adult Services Manual (ASM) 120, 11-1-2011,
Pages 1-4 of 6*

The ██████████ completed a home call on ██████████ and conducted an assessment. As a result of her assessment, she determined the Appellant required some assistance with one activity of daily living (bathing) and limited assistance with all of the Instrumental Activities of Daily Living. The instrumental activities of daily living are housework, laundry, shopping for food and medication, medication administration and meal preparation. She determined the appropriate functional rank for the Appellant for each of these tasks was 3 because his physical ability to perform most of each of these tasks was apparent. In other words, his need for physical assistance was limited in each area. She thereafter authorized a monthly payment of \$149.96 for a provider to assist him. The worker's narrative notes were introduced into the evidentiary record and reviewed by this ALJ. In them she states the Appellant does have use of a cane for assistance with ambulation and requires assistance in and out of the bathtub as a result. She also noted she had concerns about the DHS 54 A s submitted, which does not certify a need for assistance with any activity of daily living or meal preparation. She further noted cooking was ongoing when she arrived at the home. She noted the Appellant did not appear to have any restriction with his upper extremities, nor need as much assistance as he claimed to need and get. She completed the assessment and assigned times according to the limited need she determined he had at the home call.

At hearing the Appellant provided testimony that he has assistance for 1.5 hours a day (at least) and all 7 days per week. He further stated he did not have his cane with him at the hearing because he had cracked it and did not have a new one yet. He did not want to rely on a broken cane. He said he and his ██████████ are the only ones living in the home and it has been that way since ██████████. He further said "as for those other people, I don't know where they live and it is not my concern". When pressed to identify each of the listed occupants according to ██████████ records, he admitted one is his ██████████ another his ██████████ and one is a ██████████. He did not elaborate on why it was not his concern where his ██████████ were residing. He testified that the cooking the worker noted at her home call was his ██████████ boiling water for coffee. He presented a copy of a newer ██████████ which had already been provided to the Department and was admitted into the evidentiary record at the behest of the Department representative. He testified he needs more time allotted for each task he is assisted with. Further elaboration revealed he does not assist with any of the tasks he

was approved for assistance with, rather, in his own words, he lets them take care of it. He does not fold and put away his own laundry. He does not shave himself. He did not testify to participation in any housework or meal preparation.

After consideration of the evidence of record, this ALJ shares the intake worker's concern about the [REDACTED] medical needs form submitted at case opening. It does not explicitly certify a medical need for assistance by checking yes or no on the form. 3 tasks are circled. Sometimes this is a mere oversight by the provider. Sometimes it is obvious due to advanced age and medical diagnoses listed on the form that the provider simply overlooked the boxes. In this instance the Appellant is not of advanced age, nor is a disabling condition apparent from the diagnosis alone. The assessment is necessary to determine his abilities because physically limiting conditions are not apparent with the documentation alone. This ALJ finds that in this case, due to the observations made by the worker and less than credible testimony provided by the Appellant, that she had good reason to be concerned about the DHS 54 A. Despite her reasonable concerns about the 54A, she completed the assessment and determined the Appellant had some limited need for help in and out of the bathtub and with instrumental activities of daily living. She authorized limited assistance with those tasks based upon those observations. This ALJ concurs with the determination that the Appellant's needs are limited, if present at all. There is no credible evidence upon which this ALJ could find the Appellant has not been provided an adequate amount of assistance.

After consideration of the Appellant's testimony, this ALJ was puzzled by the testimony from the Appellant at hearing. His statement about his own brother and sister, referring to them "those other people" is damaging. He may not actually know where they live and may not be concerned about them, however, he certainly knew who they were. They are relatives, not "those other people", as if the Department records had errantly identified a group of strangers as housemates. He simply could have stated that although the other people identified a residing with him are related, they do not in fact live with him and he is powerless to make them change their address with the Department. This ALJ finds it possible that he attempted to mislead her with his reference to them as "those other people", especially given that the ASW learned they were using the address only when she consulted Department records. This ALJ is mindful of the reported mental health diagnoses on the [REDACTED] and is considering the testimony in light of those reports. It came to light at hearing that the Appellant is not actively treating for any of his mental health conditions. He is not taking any medication for either of them, nor did he provide evidence of a mental health provider or treatment necessitated by his reported mental health diagnosis. On balance, this ALJ finds it more likely an overt attempt to mislead the [REDACTED] and this ALJ has occurred, thus the Appellant's credibility is damaged. This ALJ finds the authorization of any HHS was a generous determination by the worker in light of her determination that the Appellant has is physically functional such that he can perform his own self care, except for getting in and out of the bathtub. While this ALJ has no doubt that his physical status makes the physical activity associated with housework, meal preparation and laundry

more difficult for the Appellant, the intent of the program is not to eliminate all responsibility for self and home care that poses a challenge. rather it is to ensure people are not forced out of a community setting because they need assistance to continue residing in the community.

The evidence of record included discussion of the assistance level being raised by a subsequent worker following telephone call and discussion of same with the newly assigned worker. For all the reasons stated above, this ALJ does not concur with the Appellant's position that he still has an inadequate level of assistance authorized from this program. No increase will be ordered.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department authorized an adequate amount of assistance for the Appellant at his initial assessment.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Signed: _____

Date Mailed: _____

***** 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.