

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

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IN THE MATTER OF:

Docket No. 2012-5612 HHS
Case No. [REDACTED]

[REDACTED],

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 by telephone [REDACTED]. The Appellant appeared with her [REDACTED] year old daughter, [REDACTED], who served as translator. [REDACTED], Appeals Review Officer, represented the Department of Community Health. [REDACTED], Appellant's Adult Services Worker, appeared as a witness for the Department. [REDACTED], Adult Services Supervisor was present.

ISSUE

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

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 Medicaid beneficiary.
2. The Appellant has been diagnosed by a physician as having major depression and low blood pressure. (Exhibit A, page 14).
3. The Appellant has 5 children living at home. (uncontested)
4. The Department conducted a comprehensive assessment [REDACTED]. (uncontested)
5. At the assessment the worker asked the Appellant to inform her of and describe her physical injuries and limitations. The Appellant informed the worker she did not have physical illnesses, rather she suffers depression. She did state occasionally her back hurts. (testimony of worker)

6. At the assessment, the Appellant states she has a need for assistance with preparing food, laundry, taking medications, getting to appointments and bathing.
7. The Appellant stated at hearing she needs her daughter to encourage her to take a bath and select clothing for her to wear. She waits by the door when she baths, waiting for her to finish. (testimony of the Appellant at hearing)
8. The Department's worker determined the Appellant's functional rank for each of the activities was a 2. (Department Exhibit A, page 11)
9. The Department sent an adequate action notice ██████████, informing the Appellant her application for HHS had been denied and the reason therefore. (Department Exhibit A, page 5)
10. On ██████████, the Department received 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.

Adult Services Manuals (ASM) 361 (6-1-07), page 2 of 24, and Adult Services Manual (ASM) 363 (9-1-08), pages 14-15, address the issues of what services are included in Home Help Services and how such services are assessed:

Home Help Payment Services

Home help services (HHS, or personal care services) are non-specialized personal care service activities provided under ILS to persons who meet eligibility requirements.

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.

Personal care services which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

(ASM 361, page 2 of 5)

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will 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.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client's social security card.

- Observe a picture I.D. of the caregiver, if applicable.
- 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.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

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 ADL's and IADL's 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.

Note: HHS payments may only be authorized for needs assessed at the 3 level or greater.

Time and Task

The worker 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.

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

These are **maximums**; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

(ASM 363, pages 2-4 of 24)

Services not Covered by Home Help Services

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2);
- Services provided for the benefit of others;
- Services for which a responsible relative is able and available to provide;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;
- Medical services;
- Home delivered meals;
- Adult day care.

(ASM 363, pages 14-15 of 24)

Given the above findings of fact and relevant policies, the Department properly considered and rejected Appellant's request for Home Help Services. The Appellant does not dispute her ailment does not result in physical limitations. She describes her inability to manage the Instrumental Activities of Daily Living as a result of her depression. She specifically stated her daughter must verbally encourage her to bath and she sets clothing out for her. She described no need for physical hands on

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assistance with personal care. She described no limitation that resulted in a functional rank of greater than 2.

The evidence presented by the Department supports its own determination that the appropriate functional rank for the Appellant in this case is a 2. She does not require physical, hands on assistance with Activities of Daily Living or Instrumental Activities of Daily Living, thus she does not qualify for payment assistance through this program. As provided in ASM 361 and ASM 363, Home Help Services do not encompass the type of help sought by the Appellant in this case. Home Help Services can only be authorized for the specific Activities of Daily Living (ADL) or Instrumental Activities of Daily Living (IADL) identified above, and then only for those with a functional rank of 3 or greater for personal care. ASM 361, page 2 of 5; ASM 363, pages 2-3 of 24. Moreover, the Appellant's request is based on her need for verbal assistance such as supervision, reminding and encouraging, but such services are explicitly excluded in Home Help Services. ASM 363, page 14 of 24.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department did properly deny Appellant's request for Home Help Services.

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:



Date Mailed: 1/24/2012

***** 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.