

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

**Docket No.** 2012-65938 HHS  
**Case No.** ██████████

Appellant

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**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. Her witness was ██████████, grandson. ██████████, Appeals Review Officer, represented the Department. Her witness was ██████████, 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 ██████-year-old Medicaid-SSI beneficiary.
2. The Appellant is afflicted with COPD, arthritis, HTN, hypothyroidism. (Department's Exhibit A, p. 7 and See Testimony)
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, medication, housework, laundry, shopping and meal preparation. (Department's Exhibit A, p. 11)
5. The ASW conducted an in-home assessment of the Appellant on ██████████. (Department's Exhibit A, p. 13)

6. The ASW proposed a reduction in HHS in the areas of bathing, mobility and the Appellant's IADLs owing to application of the policy on shared households. (See Testimony and Department's Exhibit A, pp. 11 and 12)
7. The Appellant testified that she needed the original time for bathing because she is unsteady and her grandson has to help her into and out of the bath. (See Testimony)
8. The ASW sent the DHS 1212 Advance Negative Action Notice on an unknown date. The notice [DHS 1212] was printed on ██████████. (Department's Exhibit A, p. 5)
9. 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.

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Adult Service Manual (ASM), §120, page 1 of 5, 5-1-2011.

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The Department witness testified that on in-home assessment she discovered the Appellant was able to ambulate – albeit with difficulty. She also discovered that the Appellant was living in a shared household so she applied the proration criteria for shared households according to policy. She also testified that she eliminated the ADL of mobility as she found the Appellant independent. There was no testimony from the ASW nor was there any written evidence concerning the reduction of the ADL of bathing.

The Appellant testified that her grandson lives there and is a big help. She said he assists her with walking, medication and all of the cooking, cleaning, shopping, and meal preparation.

The Appellant's witness testified that owing to her COPD there is much coughing and hacking from the Appellant and because she is allergic to most cleaning products he has to open all of the windows when he cleans.

The Appellant added that she requires his assistance to get into the tub and out of the tub on a daily basis.

The testimony of the ASW and the Appellant supported the idea that the Appellant lived in a shared household and was mobile. However, there was simply no evidence to explain the reduction in the ADL of bathing.

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

- There was a minor reduction in the ADL of bathing from 18 minutes a day, 7 days a week to 20 minutes a day, 5 days a week, since the Appellant bathes daily and there was no evidence to support the negative action, the reduction in this ADL fails.
- The personal care task of mobility was properly eliminated as the testimony of the parties supported the observation made by the ASW concerning the Appellant's guarded independence in her apartment.

The following item summarizes the IADL status and the ALJ's agreement:

- The testimony and the evidence supported the idea that the Appellant lived in a shared household. The proration of the Appellant's shared household was properly applied.

On review of the testimony and evidence, the Administrative Law Judge finds that the comprehensive assessment was improperly drawn. There was no evidence to support the reduction in the ADL of bathing. The remaining ADL elimination and application of the shared household policy was properly applied.

The Department erred in application of a reduction in the ADL of bathing. There was no evidence to support this reduction.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly reduced the Appellant's HHS payment.

**IT IS THEREFORE ORDERED** that:

The Department's decision is **AFFIRMED**, in part, and **REVERSED**, in part.

**IT IS FURTHER ORDERED** that:

The Department shall reinstate the ADL of bathing to the level in effect on ██████████

██████████.

ls\ \_\_\_\_\_

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

**Docket No. 2012-65938 HHS**  
**Hearing Decision & Order**

cc:



Date Mailed: 10/23/2012

**\*\*\* 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.