

**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) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2012-70943 HHS
Case No. ██████████

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. His witness was ██████████, represented the Department. Her witnesses were ██████████, ASW and ██████████, ASW supervisor.

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. (Appellant's Exhibit #1)
2. The Appellant is afflicted with HTN, DM, CVA, and diabetic retinopathy. (Department's Exhibit A, page 11)
3. The Appellant receives HHS program assistance for the tasks of grooming, dressing, toileting, transferring, eating, mobility, medication, housework, laundry, shopping and meal preparation. (Department's Exhibit A, pages 14 and 15)
4. The ASW proposed a reduction in HHS in the areas of transferring, eating and mobility. She also adjusted payment to reflect a shared household. The new proposed total cost care was set at \$██████ following her ██████ in-home comprehensive assessment. (See Testimony and Department's Exhibit A at page 9)

5. The Appellant's witness said that the Appellant has not improved since the in-home assessment. (See Testimony)
6. The ASW sent the DHS 1212 Advance Negative Action Notice on ██████████, reducing the HHS tasks (above) effective ██████████. (See Testimony and Department's Exhibit A, page 5)
7. The Appellant's further appeal rights were contained therein.
8. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) on ██████████. (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 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.

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- 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, 5-1-2012.

The Department witness testified that on in-home assessment she discovered the Appellant to have less need for the tasks of transferring, eating and mobility based on her in-home observations and the Appellant's statements. She proposed a reduction of \$██████████ for a revised total cost of care: \$██████████ – which included a pro rated reduction for a shared household [not disputed by the Appellant]. She said she reduced the personal care chores based on her observation in the Appellant's home and reduced the allotment of time for eating owing to the Appellant's statement that she could feed herself – albeit one handed. Campbell said, "I was told she could feed herself with her right hand."

The Appellant's representative said that the Appellant's mind is not right and that she requires more time to move and more time to eat because her food has to be cut by someone else. The choreprovider said that he often has to hand feed his mother.

The testimony of both the ASW and the Appellant supported the idea that the Appellant still needed assistance with the ADLs and IADLs, but with a slight reduction in the aforementioned tasks owing to the ASW's observations of the Appellant, her statements and those of the choreprovider.

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

- The personal care task (ADL) of transferring was properly reduced from 5:30 hours a month to 1:30 hours a month based on the ASW's observation during the in-home assessment.
- The IADL of eating was properly reduced from 25 hours a month to 5:30 hours a month again based of the ASW's observations of the Appellant and her statement concerning right handed ability to feed herself.

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- The ADL of mobility was properly reduced from 8 hours a month to 3:30 hours a month based on the ASW's observation of the Appellant moving about her home without assistive device in hand.

On review of the testimony and evidence, the Administrative Law Judge finds that the comprehensive assessment was properly drawn.

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 to demonstrate that the Department erred in its comprehensive assessment conducted on [REDACTED].

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**.

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

cc:

[REDACTED]

Date Mailed: 4/17/2013

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***** 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.