

**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:

Docket No. 2013-10678 HHS

██████████

██████████

██████████

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 on ██████████. ██████████ mother, represented the Appellant. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), appeared as a witness for the Department.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services ("HHS") authorization?

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 who had been authorized for HHS.
2. The Appellant has been diagnosed with mental retardation, global developmental delay. Eye infections have also been reported. (Exhibit 1, page 15)
3. The Appellant lives with his mother, who is his HHS provider. (Exhibit 1, pages 18 and 20)
4. The Appellant had been receiving HHS for assistance with bathing, grooming, dressing, toileting, eating, housework, shopping, laundry and meal preparation with a monthly care cost of ██████████ (Exhibit 1, pages 17-18; ASW Testimony)

5. On ██████████, the ASW went to the Appellant's home and completed an in-home assessment for a review of the Appellant's HHS case. The Appellant's mother was present. This was a new case to this ASW. Regarding toileting needs, the ASW understood that the Appellant only needed assistance with wiping after a bowel movement. Regarding eating needs, the ASW understood the Appellant only needed assistance with cutting meat and that the Appellant could use a fork, spoon and cup on his own. (Exhibit 1, page 13; ASW Testimony)
6. Based on the available information, the ASW concluded that the Appellant's HHS hours for the IADLs of housework, shopping, laundry and meal preparation should be increased and the HHS hours for toileting and eating should be reduced. This resulted in an overall reduction to the Appellant's HHS authorization to a monthly care cost of ██████████. (Exhibit 1, page 17; ASW Testimony)
7. On ██████████, the Department sent the Appellant an Advance Action Notice, which informed him that effective ██████████ the HHS case, would be reduced to ██████████. (Exhibit 1, pages 8-12)
8. On ██████████, the request for hearing filed on the Appellant's behalf was received by the Michigan Administrative Hearing System. On ██████████ the hearing request was re-submitted with documentation of guardianship. (Exhibit 1, pages 3-6)

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 Manual (ASM) 101, 11-1-11, addresses HHS payments:

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

Home help services are provided to enable individuals with functional limitation(s), resulting from a medical or physical disability or cognitive impairment to live independently and receive care in the least restrictive, preferred settings.

*Adult Services Manual (ASM) 101,
11-1-2011, Page 1of 4.*

Adult Services Manual (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

*Adult Services Manual (ASM) 105,
11-1-2011, Page 1 of 3*

Adult Services Manual (ASM 120, 5-1-2012), 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-27, 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 home help services 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.

Home help payments may only be authorized for needs assessed at the 3 level ranking 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 instrumental activities of daily living 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 hours 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, 5-1-2012,
Pages 1-5 of 5*

Certain services are not covered by HHS. ASM 101 provides a listing of the services not covered by HHS.

Services not Covered by Home Help

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding, teaching 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 (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.

- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive.

*Adult Services Manual (ASM) 101, 11-1-2011,
Pages 3-4 of 4.*

The Appellant had been receiving HHS for assistance with bathing, grooming, dressing, toileting, eating, housework, shopping, laundry and meal preparation with a monthly care cost of ██████████. (Exhibit 1, pages 17-18; ASW Testimony)

On ██████████ the ASW went to the Appellant's home and completed an in-home assessment for a review of the Appellant's HHS case. The Appellant's mother was present. This was a new case to this ASW. The ASW went over the ADLs and IADLs, including specific parts of each activity. Regarding toileting needs, the ASW understood that the Appellant only needed assistance with wiping after a bowel movement. Regarding eating needs, the ASW understood the Appellant only needed assistance with cutting meat and that the Appellant could use a fork, spoon and cup on his own. (Exhibit 1, page 13; ASW Testimony) The rankings from the prior ASW remained in the Department's computer system. The only differences would be that this ASW ranked the Appellant as a functional level 3 for toileting and eating. (Exhibit 1, page 16; ASW Testimony)

Based on the available information, the ASW concluded that the Appellant's HHS hours for the IADLs of housework, shopping, laundry and meal preparation should be increased and the HHS hours for toileting and eating should be reduced. This resulted in an overall reduction to the Appellant's HHS authorization to a monthly care cost of ██████████. (Exhibit 1, page 17; ASW Testimony) It appears the HHS hours for the IADLs of housework, shopping, laundry and meal preparation had been prorated by ██████████ instead of by ██████████. (Exhibit 1, pages 9-10)

The Appellant's mother disagrees with the reduction to the HHS authorization. The Appellant's mother testified that it is not just meat that needs to be cut for the Appellant. Other foods, like fruits, pancakes and eggs are cut for the Appellant. The Appellant cannot use a fork well, but can use a spoon very well. The Appellant's mother also has to watch while the Appellant eats and clean after. Regarding toileting, it is not just wiping assistance. The Appellant's mother gives the Appellant a bath after bowel movements. Bathing occurs every time after a bowel movement, sometimes ██████████ or ██████████ times a day. When asked why bathing was needed after every bowel movement, the Appellant's mother indicated there were no issues like loose stools, just that otherwise she cannot clean him well. (Mother Testimony)

The Department provided sufficient evidence to support the reductions to the HHS hours for toileting and eating. The evidence indicates that the Appellant only needs assistance with cutting foods, and while he has some trouble with a fork he can use a spoon very well. This is consistent with a functional ranking at level 3 for eating. (See Adult Services Manual (ASM) 121, 11-1-2011 page 25) The authorization of [REDACTED] minutes per day for eating is upheld as it is consistent with a functional ranking at level 3 and the Appellant's needs for assistance with this activity, specifically cutting food. The reduction to the HHS hours for toileting is also upheld. The Appellant's mother did not provide sufficient explanation for why bathing is necessary after every bowel movement. Further, bathing is a separate ADL that has been authorized in accordance with the functional ranking at level 5 at [REDACTED] minutes per day. (Exhibit 1, page 17) The ASW also properly increased the HHS authorization for the IADLs of housework, shopping, laundry and meal preparation to prorate by half instead of by four, in accordance with the Adult Services Manual policy.

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 authorization based on the available information.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

/s/

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

***** 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.