

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

██████████,

Appellant.

_____ /

Docket No. 2013-19968 HHS

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ), pursuant to M.C.L. § 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant ██████████ ██████████ appeared on her own behalf. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Worker at the Genesee County DHS Office, appeared as a witness for the Department.

ISSUE

Did the Department properly reduce Home Help Services (HHS) payments to Appellant?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a ██████ year-old (DOB: ██████████) Medicaid beneficiary.
2. Appellant has been diagnosed with Fibromyalgia, degenerative disc disease, asthma, memory loss, COPD, hypertension, osteoarthritis, GERD, anxiety, and detached retina. (Exhibit A, p. 15).
3. On ██████████, Appellant was sent a Services and Payment Approval Notice informing her that HHS had been approved in the amount of \$ ██████ per month, effective ██████████. This action was taken following an ALJ's decision ordering DHS to make Appellant eligible for assistance with bathing. (Exhibit A, pp. 2, 8-9).

[REDACTED]
Docket No. 2013-19968 HHS
Hearing Decision & Order

4. On [REDACTED], Adult Services Worker [REDACTED] sent Appellant a Negative Action Notice informing her that HHS was reduced to \$ [REDACTED] per month, effective [REDACTED], because Appellant lived in a shared household and policy requires the ASW to prorate IADLs when other adults reside in the home. (Exhibit A, pp. 5-7; and Testimony).
5. On [REDACTED], the Department received Appellant's Request for Hearing. (Exhibit A, p. 3).

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 agencies.

Adult Services Manual 120 (5-1-12) (hereinafter "ASM 120") addresses the maximum number of hours and the proration of Instrumental Activities of Daily Living (IADLs) services:

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.

Docket No. 2013-19968 HHS
Hearing Decision & Order

Note: This does not include situations where others live in adjoined 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. [ASM 120, page 4 of 5].

The preponderance of the reliable evidence in this case establishes that the Appellant had a shared living arrangement with her [REDACTED]. The Department's witness testified that at her last face-to-face meeting with the Appellant in her home on [REDACTED], she asked whether anyone lived in the home with her and Appellant advised that her [REDACTED] [REDACTED] was living there with her. The ASW stated that her [REDACTED] [REDACTED] was present during the home visit.

The ASW stated that on [REDACTED], she sent Appellant a Negative Action Notice advising that she was reducing her HHS based on a shared household and that the new amount would be \$ [REDACTED] effective [REDACTED]. The reduction was based on the policy in the Adult Services Manual requiring a proration of services for IADLs, requiring them to be cut at least in half due to the shared household. The ASW stated that before she actually put in the reduction, she contacted the cousin's DHS worker and was informed that the cousin did have Appellant's address as both his [REDACTED] [REDACTED] and his [REDACTED]. The [REDACTED] worker informed the ASW that the [REDACTED] was receiving Medicaid at the Appellant's address and he had a FAP (Food Assistance Program) case at that address that had just closed.

The Appellant acknowledged that she advised the ASW that her [REDACTED] was living with her at the time of the home visit, but claimed that he moved out 4 weeks after the home visit. This statement is contradicted by her own statement in her Request for a hearing where Appellant stated that her [REDACTED] did not move out until [REDACTED]. Appellant's statement is further contradicted by the information obtained from the [REDACTED] DHS worker who advised on [REDACTED] that the [REDACTED] still had the Appellant's address as both his [REDACTED] [REDACTED] and his [REDACTED].

The preponderance of the reliable evidence shows that the Appellant's [REDACTED] was in a shared living arrangement with the Appellant. I find there was a shared living arrangement, despite the Appellant's claims that her [REDACTED] had previously moved out. The fact that the Appellant's address was being used to receive his Medicaid and FAP benefits negates the Appellant's claim that the [REDACTED] had moved out prior to the Department's negative action. Given the shared living arrangement, the Department was bound to follow the mandated policy and prorate the HHS time and payment for the IADLs noted, by at least one-half.

The Department did issue a Negative Action Notice to the Appellant indicating that it would be prorating/reducing Appellant's HHS for laundry, shopping, meal preparation, and housework by one-half for those IADLs, effective [REDACTED]. That decision

Docket No. 2013-19968 HHS
Hearing Decision & Order

must be sustained as ASM 120 does not provide for any exceptions. To the extent the Department failed to follow the proration policy by not prorating IADLS previously, it was generous in favor of the Appellant. Accordingly, based upon the information available to the ASW at the time, the proration/reduction of HHS services, effective [REDACTED], should be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced Appellant's Home Help Services effective [REDACTED].

IT IS THEREFORE ORDERED THAT:

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

/s/ _____
William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: February 27, 2013

***** 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.