

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

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IN THE MATTER OF:

██████████,

Appellant.

_____ /

Docket No. 2013-21490 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's ██████████ ██████████ appeared and testified on the Appellant's behalf. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Worker, Kent County Department of Human Services (DHS), appeared as a witness for the Department.

ISSUE

Did the Department properly assess 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. Appellant is a █████ year-old (DOB ██████████) Medicaid beneficiary.
2. According to the medical needs form supplied to DHS dated ██████████ Appellant has been diagnosed with severe anxiety, depression, chronic pain, and a poorly healed fracture of the left leg. (Exhibit A, p. 7).
3. On ██████████, Appellant applied for HHS. (Exhibit A, p. 4)
4. As part of the application and assessment process, ASW ██████████ conducted a home visit on ██████████. (Exhibit A, pp. 6, 8 and Testimony).

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5. Based on her assessment and information provided by Appellant during the home visit, ASW ██████████ determined that Appellant qualified for HHS assistance with the tasks of housework, laundry, shopping, and meal preparation. (Exhibit A, pp. 8-9 and Testimony).
6. ASW ██████████ authorized a total of 15 hours and 33 minutes of HHS per month for assistance with those tasks, with a total monthly care cost of \$ ██████████ (Exhibit A, pp. 1, 4-5, 9).
7. On ██████████, the Department sent Appellant a Services and Payment Approval Notice notifying her that her application had been approved and what her payments would be. (Exhibit A, pp. 1, 4-5).
8. On ██████████, MAHS received Appellant's Request for Hearing. In that request, Appellant states that the amount of hours approved do not cover the actual amount of time the ██████████/caregiver spends taking care of her. (Exhibit A, page 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

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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. [ASM 120, page 4 of 5].

The Department's witness testified she did an initial assessment for HHS in the Appellant's home on ██████████. Both the Appellant and her ██████████ the prospective provider, were present for the assessment. The ASW determined that the Appellant bathes herself, but her ██████████ stays nearby in case Appellant might need help, so bathing was ranked as a two. The ASW determined the Appellant did all her own grooming, and dresses herself, she said she needed occasional help with fastening her bra, but there was no documentation as to why she couldn't fasten her bra by herself, so dressing was ranked as a two. All other ADLs were ranked as a one for independent, except for mobility which was ranked as a three as Appellant needs to use a cane to get around, because she is a fall risk.

The ASW stated that HHS program does not pay for tasks rated as a one or a two. She stated that the HHS program does not pay for someone to be around in case someone needs help, for making arrangements for doctor's visits, or for taking them to the doctor. She also stated that there are limits to the number of hours that can be authorized for IADLS per month. The ASW further stated the Appellant and the daughter/provider were in a shared living arrangement, so the IADLS had to be prorated according to policy in the Adult Services Manual.

The ASW stated for housework the maximum number of hours that can be authorized per month is six hours, and since it had to be prorated she authorized 3 hours per month. For laundry, the maximum per month is 7 hours, but since Appellant could help some with laundry, she prorated 6 hours and authorized 3 hours per month. For shopping the maximum is five hours per month, so she prorated that and authorized two hours thirty minutes for shopping. For meal preparation, the ASW was advised the Appellant could fix her own breakfast, and with some assistance she could fix some lunches or dinners. The ASW determined the Appellant would need 28 minutes per day

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for meal preparation, but this would have to be prorated to 14 minutes per day, which came out to 7 hours per month for meal preparation. The ASW stated in her opinion, the 15 hours and 33 minutes per month authorized for Appellant's HHS was an adequate amount to meet the Appellant's needs, as they were described to her on the day she completed the assessment for HHS.

The Appellant's ██████████ who testified stated she is not the Appellant's provider and did not attend the initial assessment for Appellant's HHS. Appellant's ██████████ indicated Appellant's biggest problem is her depression and it is hard to get her out of bed or to get her to do things for herself. She stated her ██████████ needs some prompting to take her medications on time. She also indicated that her ██████████ is not very reliable with cooking or the laundry and relies on the other ██████████ a lot.

Appellant's ██████████ also indicated that Appellant has high blood pressure, something not noted on the medical needs form. She also indicated that her ██████████ has fallen more since the assessment and she has been in for additional tests at the doctor's office. The Appellant's ██████████ acknowledged that none of this additional medical information was provided to the ASW.

The preponderance of the reliable evidence shows the ASW properly assessed the Appellant's needs for HHS. Appellant's ██████████ and chore provider, who is able and available to provide the needed services, is in a shared living arrangement with the Appellant. Given this 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.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that, based on the available information, the Department properly assessed Appellant's HHS.

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

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cc:



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.