

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. 2013-25975 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Given some overlap in testimony and witnesses, Appellant's hearing was consolidated with an earlier hearing held in a case involving her brother: ██████████.

██████████, Appellant's father and legal guardian, appeared and testified on Appellant's behalf. ██████████, Appellant's mother and co-guardian; ██████████, Appellant's aide; and ██████████, Executive Director of ██████████, also testified as witnesses for Appellant. Appellant, her brother, her brother's teacher, and attorney ██████████ were present during the hearing, but did not testify.

██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from the ██████████ DHS Office also appeared as witnesses for the Department.

ISSUE

Did the Department properly determine that Appellant's Home Help Services (HHS) should be reduced?

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 Medicaid beneficiary who has been diagnosed with autism. (Respondent's Exhibit A, pages 21).

Docket No. 2013-25975 HHS
Decision and Order

2. Appellant's parents are also her legal guardians. (Respondent's Exhibit A, page 7; Testimony of Appellant's representative).
3. Appellant lives with her parents and siblings. (Testimony of ASW [REDACTED]; Testimony of Appellant's representative).
4. Appellant has been receiving HHS in the amount of 60 hours and 11 minutes per month, with a total care cost of [REDACTED] per month. (Respondent's Exhibit A, page 25).
5. Specifically, HHS has been authorized for assistance with bathing, grooming, dressing, eating, light housework, laundry, shopping, and meal preparation. (Respondent's Exhibit A, page 25).
6. On [REDACTED], ASW [REDACTED] conducted a home visit and reassessment of Appellant's services. Both Appellant and her parents were present during that visit. (Respondent's Exhibit A, pages 17-19).
7. Based on the reports of Appellant's parents; her own observations; and the applicable policy; ASW [REDACTED] decided to reduce Appellant's services. (Respondent's Exhibit A, pages 17-19; Testimony of ASW [REDACTED]).
8. Specifically, ASW [REDACTED] decided to reduce the assistance authorized for bathing, grooming, dressing, eating, light housework, shopping, and meal preparation. (Respondent's Exhibit A, pages 25-26).
9. Overall, Appellant's HHS were to be reduced to 23 hours and 41 minutes per month, with a total care cost of \$ [REDACTED] per month. (Respondent's Exhibit A, page 26).
10. On [REDACTED], the Department sent Appellant written notice that her HHS would be reduced to \$ [REDACTED] per month on [REDACTED]. (Respondent's Exhibit A, pages 5, 13-16).
11. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing filed on behalf of Appellant. (Respondent's Exhibit A, pages 7-12).
12. On [REDACTED], MAHS sent out notice of a telephone hearing scheduled for [REDACTED].
13. On [REDACTED], Appellant's representative requested an in-person hearing.
14. On [REDACTED], MAHS sent out notice of an in-person hearing scheduled for [REDACTED].

██████████
Docket No. 2013-25975 HHS
Decision and Order

15. On ██████████, the Department requested that the in-person hearing be rescheduled due to the unavailability of the Department's witness.
16. On ██████████, MAHS sent out notice of a rescheduled in-person hearing scheduled for ██████████.
17. The in-person hearing was held 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 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 101 (11-1-2011) (hereinafter "ASM 101") and Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed. In part, ASM 101 provides:

Home Help Payment Services

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.

Home Help Services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, Intermediate Care Facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities must be certified by a Medicaid enrolled medical professional and may be provided by individuals or

Docket No. 2013-25975 HHS
Decision and Order

by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

Personal care services which are eligible for Title XIX funding are limited to:

Activities of Daily Living (ADL)

- Eating.
- Toileting.
- Bathing.
- Grooming.
- Dressing.
- Transferring.
- Mobility.

Instrumental Activities of Daily Living (IADL)

- Taking medication.
- Meal preparation/cleanup.
- Shopping for food and other necessities of daily living.
- Laundry.
- Housework.

An individual must be assessed with at least one Activity of Daily Living (ADL) 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 IADL's if the assessment determines a need at a level 3 or greater

* * *

Services not Covered by Home Help

Home help services must not be approved for the following:

Docket No. 2013-25975 HHS
Decision and Order

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2). [ASM 101, pages 1-3 of 4.]

Moreover, ASM 120 states:

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.

Docket No. 2013-25975 HHS
Decision and Order

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 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 IADL's if the assessment determines 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. [ASM 120, pages 2-3 of 5.]

Here, as discussed above, while the Department has proposed a number of reductions, not all of those reductions are disputed by Appellant. Appellant's representative does challenge the assistance authorized for the tasks of bathing, grooming, light housework, laundry, shopping, and meal preparation.

Each disputed task will be addressed below. Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in deciding to reduce those services.

For the reasons discussed below, this Administrative Law Judge finds that Appellant has failed to meet her burden of proof and that the Department's decision to reduce Appellant's HHS should be affirmed.

Bathing/Grooming

Appellant's HHS with respect to bathing were reduced from 22 minutes a day, 7 days a week, to 15 minutes a day, 7 days a week, while her HHS with respect to grooming were reduced from 10 minutes a day, 5 days a week, to 5 minutes a day, 7 days a week. As those reductions were based on similar reasons and involve similar arguments by the parties, they will be discussed together.

Bathing is specifically discussed in Adult Services Manual 121 (11-1-2011) (hereinafter "ASM 121"), pages 1-2 of 4. As provided in that manual:

Bathing - helping with cleaning the body or parts of the body using a tub, shower or sponge bath; including getting a basin of water, managing faucets, soaping, rinsing and drying. helping shampoo hair.

- 1 No assistance required.
- 2 Bathes self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.
- 3 Minimal hands-on assistance or assistive technology required to carry out task. Generally bathes self but needs some assistance with cleaning hard to reach areas; getting in/out of tub/shower. Client is able to sponge bath but another person must bring water, soap, towel. Client relies on a bath or transfer bench when bathing. The constant presence of another is not required.
- 4 Requires direct hand- on [sic] assistance with most aspects of bathing. Would be at risk if left alone.
- 5 Totally dependent on others in all areas of bathing.

Additionally, with respect to grooming, ASM 121, page 2 of 4, provides:

Grooming - Maintaining personal hygiene and a neat appearance; including the combing/brushing of hair; brushing/cleaning teeth, shaving, fingernail and toenail care.

- 1 No assistance required.
- 2 Grooms self with direction or intermittent monitoring. May need reminding to maintain personal hygiene

██████████
Docket No. 2013-25975 HHS
Decision and Order

- 3 Minimal hands-on assistance required. Grooms self but needs some assistance with activities of personal hygiene.
- 4 Requires direct hands-on assistance with most aspects of grooming. Would be at risk if left alone.
- 5 Totally dependent on others in all areas of grooming.

Here, ASW ██████████ notes, rankings and testimony provide that that the reductions to grooming and bathing were based on Appellant's ability to complete most of the aspects of those tasks with prompting or directing. While ██████████ acknowledged that assisting Appellant is difficult at times, she still found that Appellant only requires minimal hands-on assistance given Appellant's physical abilities and her capacity to be prompted or guided into completing tasks.

Appellant's representative, on the other hand, testified that, while Appellant may be physically capable of bathing or grooming herself, she lacks the mental capacity to complete those tasks on her own and will not do so without significant assistance. The care provider has to bathe and groom Appellant, with much hands-on assistance, in order to complete the task properly. Based on that necessity, Appellant's representative believes that Appellant should be ranked a "4" in bathing and grooming, and that the authorized times for HHS should not be reduced. He also notes that Appellant's circumstances have not changed since her previous assessments.

As a preliminary matter, this Administrative Law Judge would note that the mere fact that Appellant's circumstances have not changed does not mean that the reductions were improper. Policy requires regular reviews of HHS and, while past reports may be relevant, each assessment is independent of earlier authorizations and reviewed on its own merits.

With respect to the decision that is before this Administrative Law Judge, the burden is on Appellant to prove by a preponderance of the evidence that the Department erred in reducing her HHS for bathing and grooming. Here, this Administrative Law Judge finds that Appellant has failed to meet that burden of proof.

Appellant is undisputedly physically capable of bathing and grooming herself without assistance, and the only dispute appears to be the degree her mental limitations necessitate hands-on assistance. Even Appellant's representative agrees that she is not totally dependent in these two tasks and can perform some aspects of bathing and grooming. Moreover, it is undisputed that prompting and guiding are successful in other areas, such as dressing. This Administrative Law Judge also observed Appellant following directions during hearing, e.g. where to sit and when to be quiet.

It is undoubtedly more efficient and convenient for Appellant's care giver to simply physically assist Appellant in bathing and grooming rather than engage in extensive prompting and guiding. However, matters of efficiency and convenience are not

Docket No. 2013-25975 HHS
Decision and Order

dispositive in this case. The above policies clearly provide that HHS only include necessary hands-on assistance and HHS must not be approved for the supervising, monitoring, reminding, guiding, teaching or encouraging. Accordingly, despite the acknowledged difficulties in prompting and assisting Appellant in bathing and grooming, this Administrative Law Judge finds that the Department did not err in reducing her HHS for assistance with those two tasks.

Meal Preparation

As discussed above, the Department also decided to reduce Appellant's HHS for the tasks of light housework, shopping, and meal preparation. Appellant disputes those reductions. The HHS authorized for assistance with laundry remained the same, but Appellant also argues that she should have received in more time for assistance with laundry.

Those four tasks are all identified as IADLs and, in reviewing the reductions, it is important to keep both the maximum hours allowable for assistance with IADLs and the Department's proration policy in mind.

With respect to the maximum allowable hours for IADLs, ASM 120, page 4 of 5, provides:

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.

Moreover, with respect to proration of IADLs, the Department's policy also provides:

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.

██████████
Docket No. 2013-25975 HHS
Decision and Order

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. [ASM 120, page 4 of 5.]

The undisputed evidence in this case establishes that the Appellant lives with her parents and siblings. Given that other adults reside in the home, the Department was bound to follow the mandated policy and prorate the HHS time and payment for shopping and meal preparation by one-half.

Accordingly, the maximum prorated HHS Appellant could receive for assistance with meal preparation is 12 hours and 30 minutes a month.

Here, Appellant was previously authorized for 20 hours and 4 minutes of assistance with meal preparation, which exceeded the maximum allowed by policy. In the proposed reduction, Appellant would only be authorized for 5 hours and 1 minute a month for assistance with meal preparation.

ASW ████████ testified and wrote in her notes that, in addition to the need to prorate IADLs, Appellant's skill level in meal preparation was higher than previously assessed. She ranked Appellant a "3" with respect to that task and allocated the time she did because, while Appellant needs monitoring when using the stove, she is able to use the microwave and can do simple dish cleaning.

In response, Appellant's representative testified that, while Appellant can do minor things such as use the microwave and make cereal, she does not wash dishes and cannot be left alone with the stove for safety reasons.

With respect to meal preparation, ASM 121, page 3 of 4, provides:

Meal Preparation - Planning menus. Washing, peeling, slicing, opening packages/cans, mixing ingredients, lifting pots/pans, reheating food, cooking, safely operating stove, setting the table, serving the meal. Washing/drying dishes and putting them away.

1 No assistance required.

██████████
Docket No. 2013-25975 HHS
Decision and Order

- 2 Verbal direction, prompting or reminding is required for menu planning, meal preparation or clean up.
- 3 Minimal hands-on assistance required for some meals. Client is able to reheat food prepared by another and/or prepare simple meals/snacks.
- 4 Requires another person to prepare most meals and do clean-up.
- 5 Totally dependent on another for meal preparation.

Given that definition, the Department's decision to rank Appellant a "3" in meal preparation and allocate a reasonable amount of time based on that ranking must be affirmed. Appellant's undisputed ability to use the stove while monitored, in addition to her undisputed ability to use the microwave and prepare other basic dishes, supports ASW ██████████ findings that Appellant should be ranked a "3", which is a ranking that gives reheating food and preparing simple meals/snacks as examples. While Appellant and her parents have chosen to have Appellant eat meals prepared for the whole family by the caregiver, it appears that she is only minimally dependent on the hands-on assistance of others for this task given her acknowledge capabilities. HHS do not encompass a choice to have others prepare meals, even when it is more efficient or convenient to do so, and may only cover necessary hands-on assistance. Moreover, while Appellant may need to be supervised for safety reasons when using the stove or preparing meals, HHS must not be approved for supervising or monitoring.

Light Housework/Housecleaning

ASM 121, page 4 of 4, describes light housework/housecleaning as follows:

Light Housecleaning - Sweeping, vacuuming and washing floors; washing kitchen counters and sinks; cleaning the bathroom; changing bed linens; taking out garbage; dusting; cleaning stove top; cleaning refrigerator.

- 1 No assistance required
- 2 Performs all tasks but needs reminding or direction from another.
- 3 Requires minimal assistance from another for some tasks due to limited endurance or limitations in bending, stooping or reaching.
- 4 Requires assistance for most tasks although client is able to perform a few simple tasks alone such as dusting and wiping counters.

██████████
Docket No. 2013-25975 HHS
Decision and Order

5 Totally dependent on another for housecleaning.

Pursuant to policy, even if ranked a “5”, the maximum prorated HHS Appellant could receive for assistance with light housecleaning is 3 hours a month. Here, assistance with housework was reduced from 5 hours and 44 minutes a month to 2 hours and 30 a month

While significant, Appellant is receiving less than the maximum allowed by policy with respect to light housekeeping. According to ASW ██████████ testimony, she rated Appellant a “3” in housework and allocated less than the maximum because Appellant can be prompted to perform most light housekeeping tasks, can participate in the same activities, and only requires minimal physical assistance. Her notes and rankings also reflect that Appellant has been assigned the chore of vacuuming and that, while she lacks a thorough understanding of cleanliness, she can be prompted to do that task and others, such as picking up items and putting them back in place.

In response, Appellant’s witnesses testified that Appellant is totally dependent on others for all aspects of housekeeping. No amount of prompting will get her to complete any cleaning thoroughly, as evidenced by her unfinished chores and the need for the caregiver to vacuum for Appellant.

However, for many of the same reasons discussed above, this Administrative Law Judge finds that Appellant has failed to meet her burden of proving by a preponderance of the evidence that the Department erred in allocating assistance with light housework. As found by the Department, while Appellant may require minimal physical assistance with housework, the evidence suggests that Appellant can perform some aspects of these tasks, such as picking things up and putting them away, with prompting and guidance. Prompting and guiding are undisputedly successful in other areas and this Administrative Law Judge observed Appellant following directions during the hearing. Moreover, while it may be more efficient and convenient for Appellant’s care giver to simply do all housework instead of prompting, reminding or directing Appellant, it does not appear that such total dependence is necessary and the Department will not authorize hands-on HHS where prompting, guiding or teaching are sufficient.

Laundry

Pursuant to policy, the maximum prorated amount Appellant could receive for assistance with laundry is 3 hours and 30 minutes a month.

With respect to that task, it is undisputed that Appellant’s caregiver completes all of Appellant’s laundry during the family loads. However, ASW ██████████ did not authorize the maximum amount of time. Instead, Appellant’s HHS for laundry remained at 2 hours a month following the most recent assessment.

██████████
Docket No. 2013-25975 HHS
Decision and Order

As stated in ASW ██████████ notes and testimony, while Appellant's caregiver may do all of Appellant's laundry, Appellant is capable of performing most aspects of that task if prompted or supervised.

Appellant's representative argues that, while Appellant may be theoretically physically capable of performing some aspects of laundry, she mentally will not do them regardless of the amount of prompting that is tried.

ASM 121, page 4 of 4, states with respect to laundry:

Laundry - Gaining access to machines, sorting, manipulating soap containers, reaching into the machine for wet/dry clothing, operating the machine controls, hanging laundry to dry, folding and putting away.

- 1 No assistance required.
- 2 Performs all tasks but needs reminding or direction to do laundry on a regular basis or to do it properly.
- 3 Minimal hand-on assistance required with some task but is able to do most laundry without assistance
- 4 Requires hands-on assistance from another person with most aspects of laundry. Is able to perform some laundry tasks such as folding small clothing items or putting clothes away.
- 5 Totally dependent on another for laundry.

Here, this Administrative Law Judge finds that Appellant has failed to meet her burden of proving by a preponderance of the evidence that the Department erred. As found by the Department, the evidence suggests that Appellant can perform most aspects of laundry, such as gathering clothes; putting clothes in machines; hanging laundry to dry; folding and putting away clothes; with prompting and guidance. Prompting and guiding are undisputedly successful in other areas and this Administrative Law Judge observed Appellant following directions during the hearing. Moreover, while it may be more efficient and convenient for Appellant's care giver to simply do all the laundry without Appellant, it does not appear that such total dependence is necessary and the Department will not authorize hands-on HHS where prompting, guiding or teaching are sufficient.

Shopping

Here, Appellant was previously authorized for 4 hours and 18 minutes of HHS per month for assistance with shopping. The Department plans to prorate and reduce that amount in half, to 2 hours and 9 minutes a month.

██████████
Docket No. 2013-25975 HHS
Decision and Order

As provided in the policy, the maximum prorated HHS Appellant could receive for shopping would be 2 hours a 30 minutes a month. According to ASW ██████████ notes and testimony, she did not authorize that maximum amount of time because, while Appellant does not have an understanding of money and is unable to make a list of needed items, Appellant is able to physically pick up items and move them to proper places with prompting.

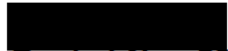
Appellant's representative argues that Appellant is totally dependent and should be ranked a "5" for shopping. In particular, he again notes that, while Appellant may be physically capable of performing all aspects of the tasks, she is not able to do so mentally, regardless of the amount of prompting that is tried.

With respect to shopping, ASM 121, page 4 of 4, provides:

Shopping - Compiling a list, managing cart or basket, identifying items needed, transferring items to home and putting them away, phoning in and picking up prescriptions. Limited to brief, occasional trips in the local area to shop for food, medical necessities and household items required specifically for the health and maintenance of client.

- 1 No assistance required.
- 2 Verbal direction, prompting or reminding is required for shopping.
- 3 Minimal hands-on assistance required for some task (grocery shopping) but client can compile a list and go to nearby store for small items.
- 4 Requires hands-on assistance from another person with most aspects of shopping but client is able to accompany and select needed items.
- 5 Totally dependent on another for shopping.

Given that definition, Appellant's ranking of "3" appears to be an error given that it is undisputed that Appellant cannot compile a list and go to nearby store for small items. However, even with that error, Appellant is almost receiving the maximum amount of HHS allowed for assistance with shopping and the Department's decision with respect to that task should be affirmed. Given her functioning level and the success of prompting in other areas, ASW ██████████ properly found that Appellant could complete some aspects of shopping, such as fetching items and putting them away as directed. As such, Appellant is not totally dependent in this task and Appellant failed to meet her burden of proof.

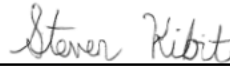

Docket No. 2013-25975 HHS
Decision and Order

DECISION AND ORDER


The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that, the Department properly decided to reduce Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision, as amended during the hearing, is **AFFIRMED**.



Steven J. Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health


Date Signed: 6/13/2013

Date Mailed: 6/14/2013

cc:



***** 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 March 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.