

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

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IN THE MATTER OF:

Docket No. 2013-27301 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 ██████████. The Appellant appeared and testified without representation. His witness was his choreprovider, ██████████. ██████████, Appeals Review Officer, represented the Department. Her witnesses were ██████████, ASW and ██████████ ASW supervisor.

ISSUE

Did the Department properly reduce Home Help Services (HHS) payments to the 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. The Appellant is a ██████-year-old Medicaid-SSI beneficiary. (Appellant's Exhibit #1)
2. The Appellant is afflicted with neuropathy, glaucoma (left eye), HTN, arthritis, blind in right eye, and DJD. The Appellant utilizes a wheelchair, but is able to transfer independently. He is on a daily methadone regiment. (Department's Exhibit A, pp. 10, 12 and 13)
3. The Appellant receives HHS program assistance for the personal care tasks and chores of bathing, grooming, dressing, mobility and the IADLs of housework, laundry, shopping and meal preparation. (Department's Exhibit A, pp. 16, 17)
4. The ASW conducted an annual in-home assessment for the Appellant on ██████████. (Department's Exhibit A, pp. 5 – 7)

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5. The ASW proposed a reduction in HHS Instrumental Activities of Daily Living (IADLs) because the Appellant lives in a shared household. (Department's Exhibit A, pp. 2 and 7)
6. The ASW proposed no changes to the Appellant's Activities of Daily Living (ADLs). (See Testimony and Department's Exhibit A, p. 17)
7. On [REDACTED] the Department sent the Appellant an Advance Negative Action Notice (DHS 1212) advising him that his HHS would be reduced [owing to a shared household] effective [REDACTED] (Department's Exhibit A, pp. 5 – 7)
8. The Appellant's further appeal rights were contained therein.
9. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) on [REDACTED] (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.
- 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, §120, page 1 of 5, 5-1-2012.

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 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.

(Emphasis supplied) *Supra*, p. 4 of 5.

The Department witness testified that on in-home assessment she discovered the Appellant to have a consistent need for the ADL personal care tasks of bathing, grooming, dressing and mobility. She assessed no reduction in time or cost of care.

However, she proposed changes to the Appellant's receipt of IADLs owing to shared household policy.

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At hearing there was no evidence that the Appellant's choreprovider did not live at the Appellant's residence as she told the ASW on hiring – other than her testimony today that she lives on ██████████. However, her registration to the HHS program as choreprovider and her own data on ██████████ shows the Appellant's address on ██████████

The choreprovider did write an unnecessarily churlish letter to the ASW chiding her some past slight that had no bearing on this appeal. The choreprovider produced no physical evidence that she did not live at the ██████████ address as her registration materials so informed the ASW. I found her testimony to be unreliable on this point – absent a visual confirmation and/or documentary evidence.

The testimony of both the ASW and the Appellant supported the idea that he still needed assistance with his ADLs and IADLs, but with the adjustment of the IADLs owing to shared household.

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

- The IADL chore of housework was properly reduced by half, from 6 hours a month to 3 hours a month, owing to the mandatory application of shared household policy.
- The IADL chore of laundry was properly increased from one (1) hour to four (4) hours per month owing to the ASW's in-home observation/assessment and application of the Reasonable Time Schedule (RTS).
- The IADL chore of shopping was properly increased from two (2) hours a month to two and half (2½) hours a month – again owing to the ASW's in-home observation/assessment and application of the RTS.
- The IADL chore of meal preparation was reduced by half – by application of the mandatory policy on shared households, thus reducing the time allocated to this chore from twenty-five (25) hours a month to twelve and a half (12 ½) hours a month.

On review of the testimony and evidence, the Administrative Law Judge finds that the comprehensive assessment was properly drawn. There was a net reduction in the total cost of care from ██████████ per month to ██████████ a month – however since policy requires that the services go to the benefit of the beneficiary alone – the Department's shared household policy makes allowance for those items (above) where the individualization of the chore cannot be determined except that the benefit goes to all who share the household.

There was no reduction in the Appellant ADLs and the Appellant brought no dispute to those assessments. Today, neither the Appellant nor his witness/choreprovider preponderated his burden of proof to establish that the choreprovider lived elsewhere.

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 adjusted time and task allotment and application of Department's mandatory shared household 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 payment.

IT IS THEREFORE ORDERED that:

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

/s/

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

DM/skb

cc:

[REDACTED]

Date Signed:

[REDACTED]

Date Mailed:

[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.



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