

**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. 2013-29441 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████, Appellant's proposed care provider, also testified as a witness on her behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. Adult Services Worker (ASW) ██████████ and Adult Services Supervisor ██████████ from the Wayne County DHS-District 45 Office appeared as witnesses for the Department.

**ISSUE**

Did the Department properly deny Appellant's application for 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 Medicaid beneficiary who has been diagnosed with asthma, lumbago, and osteoarthritis in her ankle. (Respondent's Exhibit A, pages 10).
2. Appellant applied for HHS in ██████████. (Respondent's Exhibit A, page 9).
3. As part of that application, Appellant submitted a DHS-54A Medical Needs form signed by ██████████. In that form, ██████████ indicated that Appellant needed assistance with meal preparation, shopping, laundry, and housework. All other tasks identified on the form were crossed off. (Respondent's Exhibit A, page 13).

[REDACTED]

4. According to Appellant, [REDACTED] has treated her for years and knows her needs. (Testimony of Appellant).
5. On [REDACTED], ASW [REDACTED] conducted a visit and assessment in Appellant's home. (Respondent's Exhibit A, pages 12).
6. During that visit, ASW [REDACTED] observed Appellant walking without any physical assistance or the assistance of any adaptive equipment. ASW also observed Appellant transfer on-and-off a kitchen chair without any difficulty or assistance. (Respondent's Exhibit A, page 12; Testimony of ASW [REDACTED]).
7. Appellant also reported to ASW [REDACTED] during the home visit that Appellant was independent in bathing, dressing, grooming, and toileting. Appellant did report needing assistance with housework, laundry, shopping, and meal preparation. (Respondent's Exhibit A, page 12; Testimony of ASW [REDACTED]).
8. Based on the medical needs form, her own observations, and the information obtained from Appellant during the home visit, ASW [REDACTED] determined that Appellant did not meet the criteria for HHS as she did not require any hands on assistance with any Activities of Daily Living (ADLs). All of the assistance Appellant requested was for Instrumental Activities of Daily Living (IADLs). (Respondent's Exhibit A, pages 9, 12; Testimony of ASW [REDACTED]).
9. On [REDACTED], the Department issued an Adequate Negative Action Notice to Appellant indicating that Appellant's application was being denied because Appellant did not require hands on assistance with at least one ADL, as required by policy. (Respondent's Exhibit A, pages 5-7).
10. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a Request for Hearing filed by Appellant in this matter. (Respondent's Exhibit A, page 4).

### **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 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. For example, 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 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. [ASM 101, pages 1-2 of 4 (italics added).]

Moreover, ASM 120 states:

#### **Functional Assessment**

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS 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 or greater.

[REDACTED]

*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 (italics added).]

As described in the above policy, an individual is only eligible to receive HHS for assistance with an IADL if he or she also has a need for assistance with at least one ADL at a level 3 or greater.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive any HHS for assistance with IADLS as she requested. That decision was based in part on the information obtained directly from Appellant, who only requested assistance with IADLs during the assessment. Moreover, ASW M [REDACTED] also observed Appellant walking and transferring without the assistance of any person or adaptive equipment during the assessment. The medical needs form submitted by Appellant's doctor also indicated that Appellant only requires assistance with IADLs.

In response, Appellant testified that she needs assistance with the ADLs of mobility, dressing and bathing. With respect to mobility, she testified that, while she was not using them the day of the home visit, she generally uses a cane and has braces on her leg. She also testified that, due to problems with bending and moving, she needs help getting dressed and in-and-out of bathtub. Appellant further noted that she now has another medical needs form and that this form indicates a need for assistance with ADLs.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request for HHS. Given the evidence and testimony regarding Appellant's request for services and needs for assistance, Appellant has failed to meet that burden. While Appellant asserts that she needs assistance with the ADLs of mobility, dressing and bathing, there is no support for her claims. Appellant herself concedes that she was walking unassisted and did not use a cane or leg braces



[REDACTED]

during the home visit. Additionally, ASW White credibly testified that Appellant only requested assistance with IADLs and Appellant's doctor, who Appellant agrees has treated her for years and knows her needs, also only indicated a need for assistance with some IADLS.

Accordingly, the Department properly found that she has no need for physical assistance with any ADLs and its decision must be affirmed.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

*Steven Kibit*

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

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 must 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.

SK/db

cc: [REDACTED]