

**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. 2013-32515 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. Appellant's daughter ██████████ also testified on the Appellant's behalf. ██████████ Appeals Review Officer (ARO), represented the Department of Community Health. ██████████ Adult Services Worker (ASW), ██████████ Department of Human Services (DHS), appeared as a witness for the Department. ██████████ Adult Services Supervisor was present but did not testify.

ISSUE

Did the Department properly reassess 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 ██████████ Medicaid beneficiary.
2. Appellant has been diagnosed with arthritis, emphysema, GERD, high cholesterol, liver damage, paraplegia and urinary incontinence. (Exhibit A, pp. 14, 16).
3. On ██████████, as part of the reassessment process, ASW Foster conducted a home visit. (Exhibit A, p. 14 and testimony).
4. Based on her reassessment and information provided by Appellant during the home visit, the ASW determined that the Appellant continued to qualify



for HHS assistance with the tasks of bathing, grooming, transferring, housework, laundry, shopping, and meal preparation. (Exhibit A, p. 23 and testimony).

- 5. During the face-to-face reassessment, the ASW confirmed the Appellant's daughter/provider's residence via her official state personal identification card and it showed the provider's "residence address" as being the same as that of the Appellant. Thus the ASW determined that the Appellant and her provider/daughter were in a shared household. (Testimony).
- 6. ASW Foster authorized a total of [redacted] hours and [redacted] minutes of HHS per month for assistance with the needed tasks, with a total monthly care cost of [redacted]. The amount of time for shopping was increased, but the amount of time for meal preparation was decreased from [redacted] hours [redacted] minutes down to 1 [redacted] hours [redacted] minutes due to the policy requiring a proration of IADLs for a shared household. (Exhibit A, pp. 22-23).
- 7. On [redacted], the Department sent Appellant an Advance Negative Action Notice. (Exhibit A, pp. 10-13).
- 8. On [redacted], MAHS received Appellant's Request for Hearing. (Exhibit A, p. 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 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.

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].

MCL 28.291a provides in part:

(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11. [MCL 291a(c)].

MCL 28.292 provides in part:

(1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card. [MCL 28.292].

[REDACTED]

The preponderance of the reliable evidence in this case establishes that the information obtained by the ASW when she conducted her last face-to-face meeting with the Appellant and her provider in the Appellant's home on [REDACTED] shows the Appellant had a shared living arrangement with her daughter. The Department's witness testified that at she checked the provider's official state personal identification card and it showed the provider's "residence address" as being the same as that of the Appellant.

The portions of the statutes quoted above require the address listed on an official state personal identification card to be "the place that is the settled home or domicile at which a person legally resides". Furthermore, MCL 28.293 makes it a crime to give false information when applying for a state personal identification card. Accordingly, the ASW had a right to rely on the information contained on the daughter's state personal identification card to determine where the provider was legally residing. In addition to this the ASW also checked information on Bridges, and found that the provider was receiving Medicaid and had used the Appellant's address as her residence for her Medicaid enrollment, and for her provider assignment information. (Exhibit A, pp. 20-21).

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 she actually increased the Appellant's time for shopping, but decreased the time for meal preparation due to the shared living arrangement. The DHS worker stated she did not reduce the time for the IADLs by half as stated in the policy, the reduction was only from [REDACTED] hours [REDACTED] minutes down to [REDACTED] hours [REDACTED] minutes.

The Appellant and her daughter indicated the daughter did not live with the Appellant, that she just used the Appellant's address for receiving her mail. The Appellant submitted a portion of an out-dated lease agreement in an attempt to show that the daughter did not live with her. (Exhibit A, pp. 6-9). The daughter stated she was a displaced person and stayed a number of different places. The daughter did agree that she had her mother's address on her official state ID card, but said it was only a mailing address and not her residence address.

The preponderance of the reliable evidence shows the ASW properly reassessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the reassessment on [REDACTED], which the worker had a legal right to rely upon, showed the Appellant's daughter and chore provider was in a shared living arrangement with the Appellant based upon the fact that her legal residence listed on her official ID card was the same as the Appellant's. Appellant's provider also used the Appellant's address as her residence for her Medicaid enrollment and her provider assignment information. Given this shared living arrangement, the Department was bound to follow

[REDACTED]

the mandated policy and prorate the HHS time and payment for the IADLs noted, by at least one-half. The fact that the proration was more generous than the at least one-half stated in policy is to the Appellant's benefit, but does not change the fact that a proration was required by policy for all IADLs.

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 reassessed Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

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

William D Bond

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [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.