

**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. 2013-34013 HHS

Case No. ██████████

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 ██████████. Appellant appeared on his own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker (ASW) appeared as a witness for the Department.

ISSUE

Did the Department properly reduce 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 who has been diagnosed with chronic obstructive pulmonary disease, congestive heart failure, hypertension, gout/gerd, sleep apnea, staph infection, avascular necrosis bilateral hips, hypothyroidism, and he has a Tracheotomy. (Exhibit A, p 9)
2. Appellant lives alone in a single family, three story home. Appellant is currently wheelchair bound and cannot go to the third floor or lower level. (Testimony)
3. On ██████████, the Department's ASW went to Appellant's home to conduct a reassessment. (Exhibit A, p 13; Testimony) The ASW interviewed Appellant and his caregiver and observed Appellant during the visit. The ASW found that Appellant's caregiver was only coming 3-4 days per week, but that Appellant had been authorized for services as if tasks were being done 5-7 days per week. (Exhibit A, p 13; Testimony)
4. Following the reassessment, Appellant's HHS was reduced from 54 hours and 50 minutes (\$██████) per month to 33 hours and 57 minutes (\$██████) per month. (Exhibit A, pp 15-16; Testimony)

5. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing him of the reduction in his HHS. (Exhibit A, pp 5-6; Testimony)
6. The Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on ██████████. (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 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 Manuals 361 (6-1-07) (hereinafter "ASM 361") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the issues of what services are included in Home Help Services and how such services are assessed:

Home Help Payment Services

Home help services (HHS, or personal care services) are non-specialized personal care service activities provided under ILS to persons who meet eligibility requirements.

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.

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.

(ASM 361, page 2 of 5)

COMPREHENSIVE ASSESSMENT

The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will 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.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client's social security card.
- Observe a picture I.D. of the caregiver, if applicable.
- 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.

- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

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 ADL's and IADL's 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.

Note: HHS payments may only be authorized for needs assessed at the 3 level or greater.

Time and Task

The worker will allocate time for each task assessed a rank of 3 or higher, based on interviews with the client and provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a guide. The RTS can be found in **ASCAP** under the **Payment** module, Time and Task screen.

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs 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

These are **maximums**; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

(ASM 363, pages 2-4 of 24)

Necessity For Service

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
 - Physician.
 - Nurse practitioner.
 - Occupational therapist.
 - Physical therapist.

(ASM 363, page 9 of 24)

Services not Covered by Home Help Services

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2);
- Services provided for the benefit of others;
- Services for which a responsible relative is able and available to provide;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for medical transportation policy and procedures.
- Money management, e.g., power of attorney, representative payee;

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- Medical services;
- Home delivered meals;
- Adult day care.

(ASM 363, pages 14-15 of 24)

The ASW testified that on [REDACTED], he went to Appellant's home to conduct a reassessment. The ASW indicated that following the reassessment he reduced the frequency of tasks to the 3-4 days per week the provider actually comes to Appellant's home. The ASW also testified that the time for bathing was decreased to reflect the time it should take to help the client in and out of the tub. The ASW testified that the time for meal preparation was decreased to reflect that the client can get some meals by himself. The ASW testified that following the reassessment, Appellant's HHS was reduced from 54 hours and 50 minutes (\$ [REDACTED]) per month to 33 hours and 57 minutes (\$ [REDACTED]) per month. On [REDACTED], the ASW sent Appellant an Advance Negative Action Notice informing him of the reduction in his HHS.

Appellant testified that he never has had a provider come to his home 5-7 days per week. Appellant explained that his niece, who is his provider, lives 30 miles away, so the round trip is 60 miles. Appellant indicated that because he has to reimburse his niece for the cost of gas, there is no way she could come 5-7 days per week. Appellant testified that he would simply take the total number of hours of HHS he was authorized for and then plan out the tasks that his caregiver could do on the occasions she could come. Appellant testified that his niece could not get all of the needed tasks done even with the hours previously authorized. Appellant indicated that he can no longer bathe himself or prepare any meals. .

Based on the evidence presented, Appellant has failed to prove, by a preponderance of evidence, that the reduction in HHS was inappropriate. The ASW reviewed Appellant's ADL's and IADL's with him and based his rankings on what was told to him during the assessment. Clearly, Appellant was previously allotted time for tasks based on a provider coming to Appellant's home 5-7 days per week when, in fact, the provider was only coming, at most, 3-4 days per week. Based on Appellant's care logs, it appears that Appellant's care giver was actually only coming to the home 1-2 times per week. The Department's ASW properly calculated Appellant's HHS based on policy and the information provided by Appellant at their meeting. If Appellant now needs more assistance with bathing and meal preparation, he can ask for a reassessment.

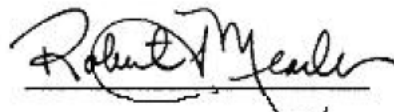
[REDACTED]
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DECISION AND ORDER

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 reduced Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



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

cc:

[REDACTED]

Date Signed: 5/29/2013

Date Mailed: 5/30/2013

***** 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 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.