

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS 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. 2013-40692 HHS
Case No. ██████████
Hearing Date: ██████████

ADMINISTRATIVE LAW JUDGE: William D. Bond

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Appellant's request for a hearing. After due notice, a telephone hearing was held on the date indicated above. The Appellant appeared and testified on her own behalf. ██████████ Appellant's partner/provider also testified for the Appellant. Participants on behalf of the Department of Community Health (Department) included ██████████ Appeals Review Officer and ██████████ Adult Services Worker.

ISSUE

Did the Department properly assess Appellant for Home Help Services?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a ██████ year-old (██████████) Medicaid beneficiary and a recipient of Home Help Services (HHS). (Testimony).
2. On ██████████ the Appellant's Adult Services Worker (ASW) completed an in-home comprehensive assessment for HHS services. (Exhibit A, p.7, and testimony).
3. The ASW authorized a total of ██████ hours and ██████ minutes of HHS per month for a total monthly care cost of ██████, with an effective start date of ██████████. (Exhibit A, p. 8 and testimony).

██████████
Docket No. 2013-40692 HHS
Decision and Order

4. On ██████████, the Department sent Appellant a Services Approval Notice notifying her that she was approved for a total of ██████ hours and ██████ minutes of HHS per month for a total monthly care cost of ██████, with an effective start date of ██████████ (Exhibit A, pp. 5-6).
5. On ██████████ the Michigan Administrative Hearing System received the Appellant's Request for Hearing. (Exhibit A, p. 2c).

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.

The Department of Community Health HHS Medicaid policy is found in the Department of Human Services Adult Services Manual (ASM) at ASM 100-170. ASM 120, pp. 1-3, provides that HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

INTRODUCTION

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

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.

Docket No. 2013-40692 HHS
Decision and Order

- 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.
 - Use the DHS-27, Authorization To Release Information, when requesting client information from another agency.
 - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. This form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion adult protective services cases; see SRM 131, Confidentiality.

* * *

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.

**Docket No. 2013-40692 HHS
Decision and Order**

- 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

Home Help Payments may only be authorized for needs assessed at the level 3 ranking 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.

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.

Complex Care Needs

Complex care refers to conditions requiring intervention with special Needs techniques and/or knowledge. These complex care tasks are performed on client's whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating and feeding.
- Catheters or legs bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Peritoneal dialysis.
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

Time and Task

The specialist 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. When hours exceed the RTS, rationale **must** be provided.

An assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). **The specialist must assess each task according to the actual time required for its completion.**

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all Instrumental Activities of Daily Living except medication. The limits are as follows:

██████████
Docket No. 2013-40692 HHS
Decision and Order

- 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 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.

Responsible Relatives

Activities of daily living may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented/verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP. [ASM 120, pp. 1-5].

This ALJ took testimony from the Appellant's Adult Services Worker (ASW) who stated on ██████████, she completed an in-home comprehensive assessment for HHS services and found the Appellant eligible for HHS services. The ASW stated on ██████████, the Department sent Appellant a Services Approval Notice notifying her that she was approved for a total of ██████ hours and ██████ minutes of HHS per month for a total monthly care cost of ██████████, with an effective start date of ██████████

Docket No. 2013-40692 HHS
Decision and Order

The ASW stated Appellant and her partner were both present for the face-to-face assessment. The ASW stated they both responded to her regarding the Appellant's needs and the assistance her partner was providing to her. The ASW stated she went over all Appellant's ADLs and IADLs. She ranked Appellant's ADLs at a three for bathing, a three for dressing, a three for transferring, and a three for mobility. The Appellant was not given any service time for assistance with mobility, because the Appellant stated she only needed to use her crutches occasionally to avoid tripping as she is unable to lift her feet very high when she walks and sometimes might trip. For her IADS, medication was ranked at a three and housework, laundry, shopping, and meal preparation were ranked at a four. The ASW stated that according to policy the IADLs had to be prorated by one half because she was in a shared living arrangement.

The ASW stated the Appellant lived in a single level dwelling. The ASW noted, however, that there was a ramp outside leading to the front door of the residence. According to the policy quoted above, the ASW would have allocated time for each task assessed a rank of 3 or higher, based on interviews with the Appellant and her provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a guide. Furthermore, the assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). The ASW was required to assess each task according to the actual time required for its completion. The ASW stated that she believed the times assigned for each task were appropriate to meet the needs determined from the face-to-face assessment.

The Appellant testified at the hearing that her condition is progressively getting worse. Appellant indicated they a finding more and more wrong with her. She indicated she recently went to a new pain doctor who said that she has arthritis throughout her whole spine. Appellant stated the appointment was in March or April after her assessment for the HHS program. Appellant admitted that she did not advise the ASW of this new medical information.

Appellant's partner/provider testified that they had a family style household, that there was no question they had a shared living arrangement. Appellant's partner stated he was just disputing the number of hours approved for Appellant's personal care, not the IADLs. Appellant's partner indicated he thought the [REDACTED] and [REDACTED] minutes authorized for the whole day was not enough time. He said he had not broken it down into the individual tasks.

Appellant's partner stated he does transferring several times per day. He said he grabs Appellant and assists her with transferring and when going down the ramp out their front door. He indicated that he does this to keep her from falling, despite the fact that the assessment showed Appellant could walk and only occasionally used her crutches to avoid tripping. Appellant's partner stated Appellant also needs assistance with dressing, for example he helps her get undressed and assists her with her night ware. He stated she has a lot of pain and that is why she needs assistance with dressing and undressing. Appellant's partner acknowledged that they had no documents from the

Docket No. 2013-40692 HHS
Decision and Order

Appellant's doctor listing any restrictions that she has from her medical conditions. Appellant's partner also acknowledged that the ASW's assessment of the Appellant's need for assistance was accurate based on their discussions during the assessment.

This ALJ finds that given the worker's observations of the Appellant and the information obtained during the [REDACTED] assessment, the amount of service hours assigned by the ASW were sufficient to meet the personal care needs of the Appellant. In the event that the Appellant's condition should worsen, as suggested by the Appellant's testimony, it is always possible to have a reassessment and approval of additional HHS hours if needed.

Therefore, based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly assessed the Appellant for HHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly assessed the Appellant's Home Help Services. Accordingly, the Department's Home Help Services 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 (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

Docket No. 2013-40692 HHS
Decision and Order

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 date of the rehearing decision.

Appellant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the Appellant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

The request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearing System
Reconsideration/Rehearing Request
P. O. Box 30763
Lansing, Michigan 48909