

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

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IN THE MATTER OF:

████████████████████,

Appellant.

Docket No. 2013-9342 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 his own behalf. ██████████, Appellant's girlfriend and former chore provider, and ██████████ Appellant's ██████████ and current chore provider, also testified on Appellant's behalf. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Supervisor and ██████████, Adult Services Specialist at the Wayne County DHS-Oakman District 45 Office, appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce Home Help Services (HHS) payments to 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. Appellant is a ██████ year-old (DOB ██████████5) Medicaid beneficiary.
2. Appellant has been diagnosed with left side lumbar disc, lumbar radiopathy, degenerative disc disease, acid reflux and bi-polar and anxiety disorder. (Exhibit A, pp. 8, 14).
3. Appellant had been receiving HHS for assistance with the tasks of bathing, grooming, dressing, housework, laundry, shopping for food and meds, and meal preparation. In total, Appellant received 48 hours and 27 minutes of HHS per month, with a total monthly care cost of \$ ██████████ (Exhibit A, pp. 9-10, 13).

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4. On [REDACTED], Adult Services Specialist [REDACTED] noted per Bridges that the Appellant had a shared household with another adult [REDACTED]. (Exhibit A, pp 2, 6; Testimony of [REDACTED])
5. Given that living arrangement, Adult Services Specialist [REDACTED] decided to reduce the HHS hours authorized for assistance with laundry, shopping, meal preparation, and housework pursuant to the Department's proration policy. The times for all other tasks would remain the same. (Testimony of [REDACTED]) After the reduction, Appellant would receive 38 hours and 51 minutes of HHS per month, with a total monthly care cost of \$ [REDACTED] (Exhibit A, p. 12).
6. On [REDACTED], the Department sent Appellant an Advance Negative Action Notice notifying Appellant that his HHS payments would be reduced. The effective date of the reduction was [REDACTED]. (Exhibit A, pp. 2-7).
7. On [REDACTED], the Department received Appellant's Request for Hearing. (Exhibit 1, pages 4-5).

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.

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- 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. [ASM 120, page 4 of 5].

The preponderance of the reliable evidence in this case establishes that the Appellant had a shared living arrangement with his [REDACTED] and former chore provider from at least [REDACTED] (the date Appellant's [REDACTED] was issued with the Appellant's address, [REDACTED], listed as her residence), through [REDACTED], the date the Appellant's [REDACTED] changed her residence address with DHS. The Department's witnesses testified that their review of the records in Bridges, the Department's computer system/data base, showed that Appellant's [REDACTED] was receiving Family Independence Programs (FIP) Benefits and Medicaid at the Appellant's residence address up until [REDACTED] 012.

The preponderance of the reliable evidence shows that the Appellant's [REDACTED] and former chore provider, who is able and available to provide the needed services, was in a shared living arrangement with the Appellant through [REDACTED]. I find there was a shared living arrangement, despite the Appellant's claims that his [REDACTED] was only using his [REDACTED] as a [REDACTED]. The fact that the Appellant's address was listed on her [REDACTED] card and was being used to receive he FIP benefits and her Medicaid, negates their claim that this was not her [REDACTED]. Given this shared living arrangement, the Department was bound to follow the mandated policy and prorate the HHS time and payment for the IADLS noted, by at least one-half.

The Department did issue an Advance Action Notice indicating that it would be prorating/reducing Appellant's HHS for laundry, shopping, meal preparation, and housework by one-half for those IADLS, effective [REDACTED]. That decision must be sustained as ASM 120 does not provide for any exceptions. To the extent the Department failed to follow the proration policy by not prorating IADLS previously, it was generous in favor of the Appellant. However, the Department's own witness did testify

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that a Bridges search conducted on [REDACTED] showed that the Appellant's [REDACTED] changed her [REDACTED] effective [REDACTED] from the Appellant's [REDACTED] to her current address of [REDACTED]. Accordingly, based upon the information contained in Bridges, the proration/reduction of HHS services should only be effective from [REDACTED] through [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly reduced Appellant's Home Help Services, but the reduction should only be effective from [REDACTED] through [REDACTED].

IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED** in part and **REVERSED** in part.

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

cc: [REDACTED]

Date Mailed: January 15, 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 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.