

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

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IN THE MATTER OF:

████████████████████

Docket No. 2013-10660 HHS¹
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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, Appellant's ██████████ and caregiver, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health (DCH of Department). ██████████, Adult Services Supervisor, and ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly approve Appellant's Home Help Services (HHS) effective ██████████?

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, born ██████████, who has been diagnosed with peripheral vascular disease, below knee amputation, myotonic dystrophy, hypertension, and neuropathy. (Exhibit A, p 7; Testimony).
2. On ██████████, Appellant completed an application for HHS, which was received by the Department on ██████████. (Exhibit A, p 6; Testimony).
3. On ██████████, the Department's ASW went to Appellant's home to conduct an initial assessment, but found the home empty and padlocked. A neighbor informed the ASW that no one was living in the home. (Testimony).

¹This case was originally coded HHP, but should have been coded HHS.

**Docket No. 2013-10660 HHS
Decision and Order**

4. On [REDACTED], the ASW received a call from a community worker, who provided her with Appellant's correct address. The ASW went to Appellant's home the same day and Appellant was approved for HHS effective [REDACTED]. (Testimony).
5. On [REDACTED], the Department sent Appellant a Payment Approval Notice, informing him that HHS was approved retroactive to [REDACTED]. (Exhibit A, p 8).
6. On [REDACTED], the Michigan Administrative Hearing System received Appellant's Request for Hearing. Appellant questioned why payments began in [REDACTED] when he had applied for HHS in [REDACTED] (Exhibit 1).
7. Evidence provided by Appellant, and forwarded to the undersigned by the Department after the hearing, shows that his HHS application did contain the correct address. (Exhibit B).

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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Home Help Services 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") addressed the issue of payment services for Home Help at the time of the denial in this case:

Payment Services for Home Help

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.

Docket No. 2013-10660 HHS
Decision and Order

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.
- Light Housecleaning.

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.

**Docket No. 2013-10660 HHS
Decision and Order**

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.]

Regarding the assessment discussed above, Adult Services Manual 120 (11-1-2011) (hereinafter "ASM 120") provided:

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.

**Docket No. 2013-10660 HHS
Decision and Order**

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.

HHS payments may only be authorized for needs assessed at the 3 level 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.

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.

* * *

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. When hours exceed the RTS, rationale **must** be provided. [ASM 120, pages 2-4 of 6.]

Moreover, with respect to the authorization of payments, Adult Services Manual 140 (11-1-2011) (hereinafter "ASM 140") states:

ADULT SERVICES AUTHORIZED PAYMENTS (ASAP)

The Adult Services Authorized Payments (ASAP) is the Michigan Department of Community Health payment system that processes adult services authorizations. The adult services specialist enters the payment authorizations using the **Payments** module of the **ASCAP** system.

No payment can be made unless the provider has been enrolled in Bridges. Adult foster care, homes for the aged and home help agency providers must also be registered with Vendor Registration; see ASM 136, Agency Providers.

Note: The adult services home page provides a link to the provider enrollment instructions located on the Office of Training and Staff Development web site.

Home Help Services payments to providers must be:

- *Authorized for a specific period of time and payment amount.* The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.
- Authorized **only** to the person or agency actually providing the hands-on services.

Note: An entity acting in the capacity of the client's fiscal intermediary is not considered the provider of home help and must not be enrolled as a home help provider; see ASM 135, Home Help Providers.

- Made payable jointly to the client and the provider.

Exception: Authorizations to home help agency providers are payable to the provider only. There are circumstances where payment authorizations to the provider only are appropriate, for example, client is physically or mentally unable to endorse the warrant. All single party authorizations must be approved by the supervisor.

- Prorate the authorization if the MA eligibility period is less than the full month. [ASM 140, page 1 of 3 (italics added).]

**Docket No. 2013-10660 HHS
Decision and Order**

The Department's ASW testified that on [REDACTED], she went to Appellant's home to conduct an initial assessment, but found the home empty and padlocked. A neighbor informed the ASW that no one was living in the home. The Department's ASW testified that on [REDACTED], she received a call from a community worker, who provided her with Appellant's correct address. The ASW went to Appellant's home the same day and Appellant was approved for HHS effective [REDACTED]. The Department's ASW testified that she did not have a phone number for Appellant and that she approved Appellant for HHS as soon as the assessment was completed.

Appellant's provider testified that the HHS application from [REDACTED] had Appellant's correct and only address. Appellant's provider indicated that the Department's Adult Services Supervisor told her in [REDACTED] that the payments would be retroactive to the application date of [REDACTED]. Appellant's provider indicated that Appellant has had no change of address since he transferred from a nursing home in [REDACTED].

On [REDACTED], the Department's Adult Services Manager submitted documentation from Appellant showing that Appellant's HHS application did contain the correct address, however, when the ASW printed the paperwork, it still showed a previous address for Appellant. This previous address is where the ASW went on [REDACTED]. The Department's Adult Services Manager concluded by indicating that, "I believe there is enough cause to begin payments for client back to application date of [REDACTED]." (Exhibit B)

Based on the evidence presented, the Appellant has proven, by a preponderance of the evidence, that his HHS payments should have been effective back to the date of his application, or [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department improperly denied payments for Home Help Services prior to [REDACTED].

IT IS THEREFORE ORDERED THAT:

The Department's decision is **REVERSED**. The Appellant's HHS payments should be retroactive to his application date, [REDACTED].

/s/

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

**Docket No. 2013-10660 HHS
Decision and Order**

cc:



Date Mailed: February 22, 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.