

**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. 2013-13574 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. Participants on behalf of the Department of Community Health (Department) included ██████████, Appeals and Review Officer and ██████████, Adult Services Worker.

ISSUE

Did the Department properly deny the request for an increase in services for the Appellant's Home Help Services case?

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).
2. The Appellant is diagnosed with CHF, a history of a heart attack in ██████ asthma, HTN, and lumbar disc disease. Appellant also states she has RH arthritis, angina, and a fused right wrist. (Exhibit A, pp. 7, 9).
3. On ██████████, Appellant applied for HHS. (Exhibit A, p.6) .
4. On ██████████, as part of the application and assessment process, the Appellant's Adult Services Worker (ASW) completed an in-home comprehensive assessment along with her previous supervisor. Appellant and her chore provider were present at the assessment. (Exhibit A, pp. 8-12 and testimony).

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5. On ██████████, based on her assessment and information provided by Appellant during the home visit, the ASW determined that Appellant qualified for HHS assistance with the tasks of bathing, grooming, eating, housework, laundry, shopping, and meal preparation. (Exhibit A, p. 10 and Testimony).
6. The ASW authorized a total of 35 hours and 24 minutes of HHS per month for assistance with those tasks, with a total monthly care cost of \$ ██████████ (Exhibit A, p. 10 and Testimony).
7. On ██████████, the Department sent Appellant a Services Approval Notice notifying her that her application had been approved and that her payments would be \$ ██████████ per month. (Exhibit A, p. 5).
8. On ██████████, the Michigan Administrative Hearing System received the Appellant's Request for Hearing asking for additional HHS services of two or three more hours per day. (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 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.
- 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.
- 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

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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:

- 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.

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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 ASW who completed the in-home assessment and the Appellant at hearing. The ASW testified she did a home call with her previous supervisor on ██████████. The ASW determined that Appellant did need help due to a change in health status in the areas of bathing, grooming, eating, housework, laundry, shopping, and meal preparation. The ASW noted Appellant lives with her adult ██████ so the housework was prorated due to there being a shared living arrangement.

The ASW stated Appellant had additional heart problems, had been in the hospital, and has a ██████ ██████ that is monitored in the doctor's office. Accordingly, the ASW found that Appellant needed help with bathing four days per week, limited to getting in and out of the tub; with grooming she needs help with combing her hair and cutting her toe nails; she needed help cutting up food due to her fused wrist; she needed total help with her laundry, which was not prorated as her ██████ does his own laundry; for shopping she needed help with most aspects of her shopping, which was not prorated as her and her ██████ have separate meals; and, she also needed hands on assistance with food preparation for breakfast and dinner only, which was not prorated as she eats separate meals from her ██████ (See Exhibit A, p. 11).

The ASW stated that she used the time and task scale provided by the Department to determine the appropriate number of HHS hours to be authorized for the Appellant. Appellant was given 8 minutes per day four days per week for assistance with getting in and out of the tub. Appellant was given 8 minutes per day seven days per week for hair combing and cutting toe nails. Only five minutes per day seven days per week to assist with cutting up food. The ASW prorated housework due to the ██████ living in the home for a total of 2 hours and 30 minutes per month. The ASW did not prorate laundry, meal preparation or eating as these IADLs are separate from the ██████ Appellant was given five hours and one minute per month for laundry, four hours and one minute per month for shopping, and 15 hours and 3 minutes per month for meal preparation. (See Exhibit A, p. 10).

The ASW stated that the Department authorized a total of 35 hours and 24 minutes per month for HHS at a total care cost of \$██████████ (See Exhibit A, p. 10). The ASW stated that the amount of HHS authorized was commensurate with the Appellant's care needs. The ASW stated that in this case she followed the policy from ASM 120, contained on page 16 of Exhibit A which states in part that: "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.**"

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The Appellant testified that nobody wants to come out and provide her HHS services for the amount authorized by the Department. Appellant indicated they were not getting through with the tasks, because there was not enough time allotted. She stated she needs help with transportation because she doesn't have a car. Appellant stated that her chore provider said there is not enough time authorized to complete all the authorized tasks.

When questioned by the Department's representative, Appellant stated in general that there was not enough time to do all the tasks, such as, getting assistance with bathing, grooming, eating, housework, and the laundry. The Appellant stated the amount of time authorized for the various tasks was ridiculous. She stated her [REDACTED] is not ever at home, and she doesn't know why he comes into play for this. When questioned further Appellant admitted she could feed herself and brush her own teeth. When directed to answer the Department's questions Appellant stated she had just come to ask for more time, and she did not come to get all frustrated and upset. She then stated "Thank you very much", and then did not answer any more questions.

This ALJ finds that given the worker's observations of the Appellant and the information obtained during the in-home assessment, the ASW did not err when she denied the request for an increase in services. The evidence of record does not support an increase in services. Compared to the monthly maximums set forth in ASM 120, on page 4 of 5, Exhibit A, page 16, Appellant received a fairly generous number of HHS hours for the various ADLs and IADLs for which she was found to need assistance. This is especially true, when only one of the IADLs was prorated due to the shared living arrangement with her son. Therefore, based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly determined that the Appellant's HHS hours should not be increased.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly determined that the Appellant's Home Help Services authorization was proper and that the Appellant was not entitled to an increase in services. Accordingly, the Department's Home Help Services decision is AFFIRMED.

/s/

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

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cc: Regina McClain
Florence Scott-Emuakpor
Kathy Verdoni
Susan Yontz
Michelle McGuire

Date Mailed: January 23, 2013

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.

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