

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

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IN THE MATTER OF:

████████████████████

Docket No. 2013-14131 HHS

Case No. ██████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 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 and testified on her own behalf. ██████████, a Paraprofessional with Community Network Services, appeared and testified on behalf of the Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from the Oakland County DHS Office, appeared as a witness for the Department. ██████████ Adult Services Supervisor was also present but did not testify.

ISSUE

Did the Department properly deny Appellant's request for 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. (Testimony).
2. Appellant has been diagnosed by a physician with diabetes, neuropathy, COPD, asthma, Crohn's disease, stage 4 chronic renal failure, osteoarthritis, degenerative disc disease, narcolepsy, bipolar disorder, and she is on the kidney transplant list. (Exhibit A, pp. 8, 10, 11, 12 and testimony).
3. On ██████████, Appellant's physician completed a DHS-54A indicating that Appellant had a medical need for assistance with mobility, taking medications, meal preparation, shopping, laundry, and housework. (Exhibit A, p. 12 and testimony).
4. On ██████████, ██████████, ASW, did a home visit with the Appellant and did a face-to-face assessment to determine Appellant's eligibility for HHS. ██████████ determined that Appellant did not meet the

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criteria for HHS as she did not need assistance with any of her ADLs. (Exhibit A, pp. 8-9, 11, 12 and testimony).

5. On [REDACTED], the Department issued an Advance Action Notice to Appellant informing her that her HHS would be denied based on the new policy requiring a rating of three or higher on an activity of daily living (ADL) in order to open a case for HHS. (Exhibit A, pp. 2, 5-7 and testimony).
6. On [REDACTED] the MAHS received Appellant's Request for Hearing. In her request for hearing Appellant stated she needed a home help provider in regards to her medication schedule, shopping cooking, house cleaning, and laundry. (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.

Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") and Adult Services Manual 120 (11-1-2011) (hereinafter "ASM 120") 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 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. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed

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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.
- Housework.

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.

Example: [REDACTED] is assessed at a level 4 for bathing however she refuses to receive assistance. [REDACTED] 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)

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding of encouraging (functional assessment rank 2);

(ASM 101, page 3 of 4)

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.

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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.

Home Help 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: ██████████ 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.

(ASM 120, pages 2-3 of 6)

Here, ASW ██████████ testified that she sent out an Adequate Negative Action Notice to the Appellant indicating that her request for HHS would be denied as the comprehensive in-home evaluation conducted did not identify a need for hands on assistance with an Activity of Daily Living. (See Exhibit A, pp. 5-7). The ASW stated she conducted an in-home assessment with the Appellant on ██████████. ██████████ stated the Appellant was residing in a semi-independent living home along with 9 other people.

The ASW went over each of the ADLs and IADLs with the Appellant to determine which of these she needed help with. The ASW stated the Appellant stated she could do bathing, grooming, dressing, toileting, transferring, eating, and mobility without a need for assistance. Appellant reported that she needed help with medication, housework,

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laundry, shopping, and meal preparation. The ASW stated that with regard to mobility the Appellant told her that she was able to move about within the residence without hands on assistance. Appellant advised the ASW that she could not go shopping as she had trouble with walking long distances.

The ASW acknowledged the rankings she gave Appellant on her ADLs and IADLs. (See Exhibit A, p. 11). The ASW also acknowledged the Medical Needs form, the DHS-54A completed by the Appellant's doctor, which indicates that Appellant had a medical need for assistance with mobility, taking medications, meal preparation, shopping, laundry, and housework. (See Exhibit A, p. 12).

The ASW referenced the policy on eligibility for HHS, (ASM 120, page 3 of 5), and stated HHS may only be authorized for needs assessed at the 3 level or greater and that an individual must be assessed with at least one activity of daily living in order to be eligible to receive HHS. ASW ██████████ concluded that this policy supported the negative action she took in this case.

During the hearing, Appellant indicated she told the ASW that especially on her dialysis days, she is very wiped out and there is very little she can do for herself. She stated most of the time she is in a lot of pain and is very tired. Appellant stated she walks with a cane most of the time, but other times she does need assistance with mobility and when she picks things up off the floor. Appellant indicated she needs help with lots of things. She stated she can only dress herself and shower herself and the people at the home do everything else for her.

Appellant's witness from Community Network Services indicated that due to Appellant's renal failure she was on the transplant list. The Appellant's witness stated the Appellant was able to feed herself, but was not able to cook for herself due to her special diet. She stated the home where Appellant lives prepares her meals for her. The Appellant's witness acknowledged that she assisted the Appellant in filling out the request for hearing. The witness stated the request for hearing indicates the Appellant needs a home help provider in regards to her medication schedule, shopping, cooking, house cleaning, and laundry.

The preponderance of reliable evidence in this case demonstrates that the Appellant does not need assistance with any of her ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if he or she has a need for assistance with an ADL at a level 3 or greater. See ASM 101, page 2 of 4; ASM 120, page 3 of 6. Appellant has no such need and is therefore ineligible to receive any type of HHS. Accordingly, the Department's decision must be sustained.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated Appellant's HHS.


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IT IS THEREFORE ORDERED THAT:

The Department's decision is **AFFIRMED**.

/s/

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

cc:



Date Mailed: February 6, 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.