

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
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. 2013-19970 HHS
██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The Appellant appeared without representation. Her witness was her ██████████. ██████████, Appeals Review Officer, represented the Department. His witnesses were ██████████, ASW and ██████████, ASW supervisor.

ISSUE

Did the Department properly reduce Home Help Services (HHS) payments to the 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. The Appellant is a ██████-year-old Medicaid beneficiary. (Appellant's Exhibit #1)
2. The Appellant is afflicted with arthritis, CHF, LBP, severe depression, OA, enlarged heart and hip bursitis. (Department's Exhibit A, pp. 9, 10 and 12)
3. The Appellant receives payment assistance for some Activities of Daily Living and Instrumental Activities of Daily Living, through the Department's Home Help Services Program.
4. The Appellant receives HHS program assistance for the tasks of bathing, grooming, dressing, and the IADLs of housework, laundry, shopping and meal preparation. (Department's Exhibit A, p. 17)

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5. The ASW conducted an in-home assessment of the Appellant on [REDACTED]. (Department's Exhibit A, p. 5)
6. The ASW proposed a reduction in HHS in the areas of dressing and housework. (See Testimony)
7. The Appellant testified that the ASW never spoke with the provider – asking her only one question. (See Testimony)
8. The ASW sent the DHS 1212 Advance Negative Action Notice on [REDACTED], reducing the HHS tasks (above) effective [REDACTED]. (See Testimony and Department's Exhibit A, p. 5)
9. The Appellant's further appeal rights were contained therein.
10. The initial request for hearing was received by the Michigan Administrative Hearing System (MAHS) on [REDACTED].

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 (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.

COMPREHENSIVE ASSESSMENT

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 for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.

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- 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.

....

Adult Service Manual (ASM), §120, page 1 of 5, 5-1-2012.

The Department witness testified that on in-home assessment she discovered the Appellant to have less need for the tasks of dressing and housework. She proposed a reduction of ██████████ for a revised total cost of care: ██████████. She said she reduced the personal care chore of dressing from 7 days a week to 4 days a week. She reduced the task of housework from 5 days a week to once a week.

The testimony of both the ASW and the Appellant supported the idea that the Appellant needed assistance with the ADLs and IADLs, but with a slight reduction in the aforementioned tasks owing to the ASW's observations of the Appellant, her statements and those of the choreprovider – who arrived near the end of the in home assessment conducted on ██████████.

The following item[s] summarize the ADL[s] and the ALJ's observation:

- The personal care task of dressing was properly reduced from 7 days a week to 4 days a week – as the Appellant's need for help was "occasional."
- The IADL of housework was reduced from 5 days a week to once a week based on the choreproviders statement to the ASW.

On review of the testimony and evidence, the Administrative Law Judge finds that the comprehensive assessment was properly drawn. The most pointed debate came on the

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issue of the amount of work the choreprovider actually performs versus what the Appellant said she needs and what the doctor certified.¹

It is the province of the ASW to determine the extent of need for services; the ASM requires a periodic in-home, comprehensive assessment of HHS recipients. Based on the ASW's face-to-face review, the Appellant remains eligible for the HHS program, but with a modestly reduced time and task allotment.

The Appellant did not meet her burden of proof.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

/s/

Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 3/13/2013

***** 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.

¹ The Department referenced a DHS 54A Medical Needs form – but failed to provide it in their evidence. See Department's Exhibit A, at page 9