

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

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IN THE MATTER OF:

██████████

Appellant,
_____ /

Docket No. ██████████

2013-34104 HHS

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 his own behalf. Participants on behalf of the Department of Community Health (Department) included ██████████ Appeals 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. On ██████████, the Appellant's Adult Services Worker (ASW) completed the most recent in-home comprehensive assessment for HHS services. (Testimony).
3. On ██████████ based on a conversation with Appellant's provider indicating that she performed daily wound care for the Appellant, the ASW increased the HHS services for the Appellant to allow additional payment for the wound care. (Exhibit A, pp. 8-9 and testimony).
4. The ASW authorized an increase of the total monthly care cost to ██████████, effective ██████████ (Exhibit A, pp. 5-6 and testimony).

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5. On [REDACTED], the Department sent Appellant a Services Approval Notice notifying him that the request for an increase had been approved and that his payments would now be [REDACTED] per month. (Exhibit A, pp. 5-6).
6. On [REDACTED], The ASW spoke with Appellant who requested additional HHS. The ASW proposed to increase Appellant's HHS to a total of [REDACTED] hours and [REDACTED] minutes per months for a total monthly care cost of [REDACTED]. Appellant told the ASW the increase was not enough and he requested a denial letter so he could go on the [REDACTED] program. The ASW then denied the increase and indicated she could not issue a denial letter as she was not stopping or decreasing his HHS. (Exhibit A, pp. 7, 16-18 and testimony).
7. On [REDACTED], the Michigan Administrative Hearing System received the Appellant's Request for Hearing. Appellant stated he was getting [REDACTED] hours of HHS and was asking for an additional [REDACTED] hours to have a provider come in the evening. (Exhibit A, p. 3).

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.



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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.



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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.

[REDACTED]

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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 stated on [REDACTED] she completed the most recent in-home comprehensive assessment with the Appellant for his HHS services. Thereafter on [REDACTED], based on a conversation with Appellant's provider indicating that she performed daily wound care for the Appellant, the ASW increased the HHS services for the Appellant to allow additional payment for the wound care. The ASW stated on [REDACTED] she sent Appellant a Services Approval Notice notifying him a request for an increase to cover daily wound care had been approved and that his payments would now be [REDACTED] per month.

The ASW stated on [REDACTED], she spoke with Appellant who requested additional HHS so his provider could come in the morning and again at night. The ASW proposed to increase Appellant's HHS to a total of [REDACTED] hours and [REDACTED] minutes per months for a total monthly care cost of [REDACTED]. Appellant told the ASW the increase was not enough and requested a denial letter so he could go on the Waiver program. The ASW then denied the increase and indicated she could not issue a denial letter as she was not stopping or decreasing his HHS.

The ASW stated that during her [REDACTED] assessment she ranked Appellant at a [REDACTED] for bathing because he said he could wash his face. She stated the maximum you can pay for bathing is [REDACTED] minutes per day, and that is what was authorized for bathing. The ASW stated for grooming the Appellant could brush his teeth, but he needed his finger nails trimmed once every [REDACTED] weeks, and needed to be shaved [REDACTED]. The ASW authorized [REDACTED] minutes per day for grooming [REDACTED] days per week. The ASW stated Appellant could not dress himself so she authorized [REDACTED] minutes per day [REDACTED] days per week. The ASW stated she ranked Appellant at a [REDACTED] for toileting and transferring and she authorized [REDACTED] minutes for toileting and [REDACTED] minutes for transferring. The ASW authorized the maximum for housework, laundry, and meal preparation.

The ASW stated during the hearing she would be willing to increase Appellant's HHS hours to that which was proposed to him on [REDACTED] 0, to a total of [REDACTED] hours and [REDACTED] minutes per months for a total monthly care cost of [REDACTED]. The ASW stated that the level of care proposed on [REDACTED] would meet the Appellant's needs according to her previous assessment and the additional information provided to her over the phone by the Appellant on [REDACTED] (See Exhibit A, p. 18).

The Appellant testified at the hearing that he has needed the additional hours for years and has asked for them before. Appellant stated he needs help at night and had asked for a total of [REDACTED] hours per day, [REDACTED] hours in the morning and [REDACTED] hours at night.

This ALJ finds that given the worker's observations of the Appellant and the information obtained during the [REDACTED] telephone conversation, the ASW erred when she

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denied the request for an increase in services. The evidence of record does support an increase in services. However, since the ASW stated she is willing to increase Appellant's HHS to that which was proposed on [REDACTED] and that the level of care proposed at that time would meet the Appellant's needs, her denial on [REDACTED] should be reversed and Appellant should be authorized to receive a total of [REDACTED] hours and [REDACTED] minutes per months for a total monthly care cost of [REDACTED], as indicated on the Provider's Assignments & Service Plans, time and tasks, on p. 18 of the Department's Hearing Summary.

Therefore, based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department improperly 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 erred when it determined that the Appellant's Home Help Services authorization should not be increased on [REDACTED]. Accordingly, the Department's Home Help Services decision is REVERSED.

William D Bond

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


Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

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.



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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