

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2013-37481 HHS

Case No. ██████████

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 was represented by his guardian, ██████████. He had no witnesses. ██████████, Appeals Review Officer, represented the Department. Her witness was ██████████, ASW.

ISSUE

Did the Department properly reduce the Appellant's 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. At the time of hearing the Appellant is a disabled adult child (DAC) age ██████.
2. He is a Medicaid beneficiary. (Appellant's Exhibit 1)
3. The Appellant is afflicted with major depression; with psychotic features and schizophrenia. He is catatonic. (Department's Exhibit A, pp. 11 and 17)
4. On ██████████, the ASW conducted an in-home redetermination for the Appellant that led to a reduction of services effective ██████████. (Department's Exhibit A, pp. 2 and 7)
5. On ██████████ the ASW sent the Appellant an advance negative action notice informing him that HHS would be reduced owing to the in-home redetermination conducted on ██████████. (Department's Exhibit A, pp. 2, 7)

6. The Appellant's further appeal rights were contained therein.
7. The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on ██████████. (Appellant's Exhibit 1)

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 medical professional.

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.
- 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.

Note: HHS payments may only be authorized for needs assessed at the 3 level or greater.

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. (Emphasis supplied)

Adult Service Manual (ASM), §120,
pages 1–6, 11-1-2011

The Department witness testified that she reduced the Appellant's HHS based on her observations and her interpretation of the doctor's recommendation. She opined that the Appellant¹ on the date of in home assessment was more responsive and more animated than he had been on previous assessments. She said that the range of motion [ROM] assessment was within medical recommendations.

The Appellant's representative disputed the reduction in ROM. He said it involves great work and time to get him up and participating as "...each digit and extremity has to be exercised or his hands will swell up." He disagreed with "all" elements of the comprehensive assessment and said that she spent an inadequate amount of time conducting her review.

The following item[s] summarizes the ADL/IADL eliminations/reductions and the ALJ's disagreement:

- Bathing was properly reduced two (2) minutes a day as the evidence showed him to be more responsive and animated.
- Range of Motion was properly reduced by thirty (30) minutes a day as the evidence showed the Appellant to be more responsive and animated.
- Meal Preparation was properly increased five (5) minutes a day as the Appellant was observed to be more active.

¹ The ASW testified that she was aware that the Appellant "...will never be independent."

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- Grooming was properly reduced two (2) minutes a day as the evidence showed him to be more responsive and animated.
- Dressing was properly reduced one (1) minute a day as the evidence showed him to be more responsive and animated.
- Toileting was properly reduced by five (5) minutes a day as the evidence showed him to be more responsive and active.
- Medication was not changed.
- Housework was properly reduced by five (5) minutes on the previously established three (3) day intervals as the evidence showed him to be more responsive and animated.
- Laundry was properly reduced by five (5) minutes on the previously established three (3) day intervals as the evidence showed the Appellant to be more responsive and animated.
- Shopping was properly reduced by five (5) minutes on the previously established three (3) day intervals because the evidence showed him to be more responsive and animated.

On review of the testimony and the evidence the Administrative Law Judge finds that the comprehensive assessment was adequate. The ASW said that the Appellant appeared to be “more responsive and animated” – and that although she knew he would never be independent she maintained that “...he could be trained.”

The Appellant’s objections as to inadequate amount of time for activities of daily living were noted – but would require additional medical support or evidence of a significant change in condition to merit reassessment – outside of stated intervals.²

The ASW observations were ephemeral and she acknowledged as much in her testimony. However, on the day of that assessment the Appellant proved to be “more responsive and animated.”

The Appellant’s guardian must understand that the HHS program is not a static award of services – it is anticipated that hands-on services will wax and wane depending on present physical status of the recipient - even in the DAC. Some people improve with time – some do not.

The Appellant, based on today’s evidence, is neither totally disabled nor totally dependent. He requires the same hands-on assistance with personal chores - albeit with a modest reduction in time and task.

² As always – if there are new developments it is incumbent on the Appellant [here the guardian] to contact the ASW for reassessment - as the comprehensive assessment must be completed at six month and annual intervals or “as often as necessary.” ASM 120.

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Based on the record established today the Appellant has not preponderated his burden of proof to demonstrate an erroneous comprehensive assessment. The Department's evidence did support the testimony of the ASW.

DECISION AND ORDER

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

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: 

Date Signed: 6/26/2013

Date Mailed: 6/26/2013

***** 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.