

**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. 2013-38773 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's mother/provider appeared and testified for the Appellant. The Appellant was also present but did not testify. Participants on behalf of the Department of Community Health (Department) included ██████████ Appeals Review Officer and ██████████ ██████████ County DHS Adult Services Worker.

ISSUE

Did the Department properly reassess Appellant for Home Help Services?

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 (DOB ██████████) Medicaid beneficiary and a recipient of Home Help Services (HHS). (Testimony).
2. On ██████████, the Appellant's Adult Services Worker (ASW) completed an in-home reassessment for HHS services. The ASW reported Appellant's mother/provider indicated she helps him in and out of the bath tub and dispenses his medications to keep him from abusing his Klonopin. The ASW stated the Appellant's mother also indicated Appellant can go to the bathroom and is not on a bowel program, she has to tell him to go to the bathroom about every ██████ days depending on what he eats. The ASW stated the Appellant's mother indicated he knows when to go as his stomach hurts, but he has no problems or bowel

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3. obstructions, and is no longer taking Doculace. The ASW stated the Appellant's mother stated the Appellant is on a straight cath. (Exhibit A, pp. 9-10, and testimony).
4. The ASW reduced HHS from the previous authorization and authorized a total of █████ hours and █ minutes of HHS per month for a total monthly care cost of █████, with an effective start date of █████ (Exhibit A, p. 8 and testimony).
5. On █████, the Department sent Appellant a Services Approval Notice notifying him that his HHS was being reduced and was approved for a total of █ hours and █ minutes of HHS per month for a total monthly care cost of █████, with an effective start date of █████. The reason stated for the reduction was to bring the Appellant case within compliance with current policy and because Appellant was no longer on a bowel program. (Exhibit A, pp. 5-8).
6. On █████, the Michigan Administrative Hearing System received the Appellant's Request for Hearing. (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 Appellant's Adult Services Worker (ASW) who stated on [REDACTED], she completed an in-home comprehensive assessment for HHS services and found the Appellant eligible for a reduced amount of HHS services. The ASW stated on [REDACTED], the Department sent Appellant a Services Approval Notice notifying him that his HHS was being reduced and was approved for a total of [REDACTED] hours and [REDACTED] minutes of HHS per month for a total monthly care cost of [REDACTED], with an effective start date of [REDACTED]. The reason stated for the reduction was to bring the Appellant case within compliance with current policy and because Appellant was no longer on a bowel program.

The ASW stated she completed an in-home reassessment for Appellant's HHS services. The ASW stated the Appellant's mother was the primary source of information during the assessment. The ASW acknowledged the hours that had been previously authorized before her in-home assessment and those that she authorized based upon her assessment. (Exhibit A, pp. 15-15). The ASW stated she used the Reasonable Time Schedule (RTS) to figure the hours to be authorized for the Appellant's HHS. (Exhibit A, p. 11). The ASW stated she split the time for IADLs due to there being a shared household. She eliminated the time for a bowel program as the Appellant's mother had stated he was no longer on a bowel program. The ASW stated she would only approve time for a bowel program where the Appellant and his doctor's order indicated a need for a bowel program. The ASW also reduced the medication hours to come in line with the maximum amount of time suggested by the RTS.

The ASW reported Appellant's mother/provider indicated she helps Appellant in and out of the bath tub and dispenses his medications to keep him from abusing his Klonopin. The ASW stated the Appellant's mother also indicated Appellant can go to the bathroom and is not on a bowel program, she has to tell him to go to the bathroom about every [REDACTED] day depending on what he eats. The ASW stated the Appellant's mother indicated he knows when to go as his stomach hurts, but he has no problems bowel obstructions, and is no longer taking Doculace. The ASW stated the Appellant's mother stated the Appellant is on a straight cath. (Exhibit A, pp. 9-10 and testimony).

The Appellant's mother/provider testified at the hearing and contradicted her statements that she made at the time of the in-home assessment. Appellant's mother stated Appellant sometimes uses Doculace suppositories. Appellant's mother claimed that she wanted to know what a bowel program was, and claimed the ASW did not know what a bowel program was. Appellant's mother indicated that Appellant went to the doctor last [REDACTED] and was given a note indicating he is on a bowel program. She admitted she hadn't provided the doctor's note to DHS prior to the hearing.

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On cross examination Appellant's mother acknowledged that she and the ASW had a lengthy discussion about the bowel program. She claimed she wasn't quite sure what a bowel program was. She also stated she wasn't sure if she told the ASW at the time of the assessment that the Appellant hadn't used Doculace for years. The Appellant's mother again claimed the ASW did not know what a bowel program was, and she was supposed to call back and tell the Appellant's mother what it was, but never called back.

This ALJ finds that given the worker's observations of the Appellant and the information obtained during the reassessment, the amount of service hours assigned by the ASW were sufficient to meet the personal care needs of the Appellant. The ASW properly used the RTS as a guide for setting the hours for each authorized task, and also followed policy by prorating the IADLs for a shared household. The ASW was justified in her reliance on the mother's statements at the assessment that Appellant was no longer on a bowel program when she eliminated time for that task.

Therefore, based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly reassessed the Appellant for HHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly reassessed the Appellant's Home Help Services. Accordingly, the Department's Home Help Services decision is AFFIRMED.

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]

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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