

**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. 2013-38899 HHS

Case No. ██████████

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. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Worker (ASW) from the ██████████ DHS Office, appeared as a witness for the Department.

ISSUE

Did the Department properly terminate 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. Appellant is a ██████-year-old (DOB ██████████) Medicaid beneficiary. (Testimony).
2. Appellant has been diagnosed by a physician with morbid obesity and unspecified internal derangement of the knee. (Exhibit A, p. 5).
3. On ██████████, ██████████ ASW, did a home visit with the Appellant and did a face-to-face assessment to determine Appellant's continued eligibility for HHS. The ASW was unable to assess the Appellant's actual hands on care needs and decided to send Appellant a new medical needs form, a DHS 54A, for a reevaluation. (Exhibit A, p. 16).
4. On ██████████, Appellant's physician's assistant completed a DHS-54A indicating the Appellant only had a medical need for assistance with shopping, laundry, and housework. (Exhibit A, p. 5 and testimony).

[REDACTED]

5. On [REDACTED], the Department issued an Advance Action Notice to Appellant informing her that her HHS would be terminated effective [REDACTED], based on the new policy requiring the need for hands on services of at least one activity of daily living (ADL) in order to qualify for HHS. The notice stated her recent medical needs form did not identify a need for an ADL. (Exhibit A, pp. 6-10 and testimony).
6. On [REDACTED], MAHS received Appellant's Request for Hearing. (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.


Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") address the issue 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



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: Ms. Smith 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. [Emphasis added, ASM 101, pages 1-2 of 4].

[REDACTED]

Here, ASW [REDACTED] testified that she sent out an Advance Negative Action Notice to the Appellant stating that her HHS would be terminated based on the new policy requiring the need for hands on services of at least one activity of daily living (ADL) in order to qualify for HHS. The notice stated Appellant's recent medical needs form did not identify a need for an ADL. (See Exhibit A, pp. 6-10). The ASW stated she called the Appellant to explain the negative action to her, because she thought the Appellant would not understand the notice when she got it in the mail.

The ASW referenced the policy on Available Services for HHS, (ASM 101), and stated activities must be certified by a Medicaid enrolled medical professional before HHS can be authorized. ASW [REDACTED] concluded that this policy supported the negative action she took in this case.

During the hearing, Appellant indicated she has a great deal of physical pain daily from multiple surgeries. Appellant further indicated she needs help getting in and out of the bath tub for bathing.

The preponderance of the 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 a Medicaid enrolled medical professional certifies the Appellant or has a medical need for assistance with an ADL. See ASM 101, p. 2 of 4. 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.

IT IS THEREFORE ORDERED THAT:

The Department's 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]

[REDACTED]

WDB/db

cc:

[REDACTED]

***** 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.