

**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. 2013-39091 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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department.

**ISSUE**

Did the Department properly decide to reduce 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 Medicaid beneficiary who has been diagnosed with, among other conditions, diabetes, congested heart failure, and lung failure. Appellant uses a pacemaker defibrillator. (Respondent's Exhibit A, page 15).
2. Appellant has been receiving HHS in the amount of 46 hours and 52 minutes per month, with a total care cost of \$██████ per month. (Respondent's Exhibit B, page 3).
3. Specifically, HHS has been authorized for assistance with bathing, grooming, dressing, taking medication, light housework, laundry, shopping, and meal preparation. (Respondent's Exhibit B, page 3).
4. On ██████████, ASW ██████████ conducted a home visit and reassessment of Appellant's services. Both Appellant and his provider were present during that visit. (Respondent's Exhibit A, pages 10-11).

**Docket No. 2013-39091 HHS  
Decision and Order**

5. On [REDACTED], the Department sent Appellant written notice that his HHS would be reduced to 36 hours and 2 minutes per month, with a total; monthly care cost of \$ [REDACTED], on [REDACTED]. (Respondent's Exhibit A, pages 5-8).
6. The notice also provided that reduction was being made to "reflect shared household." (Respondent's Exhibit A, page 6).
7. As demonstrated during the hearing, the Department specifically, decided to reduce the assistance authorized for laundry, bathing, and taking medication while increasing the assistance for grooming. The assistance for all other tasks would remain the same. Overall, Appellant's HHS were reduced. (Respondent's Exhibit A, pages 25-26).
8. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing in this matter. (Respondent's Exhibit A, page 3).
9. The reduction took effect on [REDACTED], but the Department also reinstated Appellant's HHS after the appeal was received and the services have remained in place while the appeal was pending. (Testimony of Appellant; Testimony of [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 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") and Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed. In part, ASM 101 provides:

**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.

**Docket No. 2013-39091 HHS  
Decision and Order**

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.

**Docket No. 2013-39091 HHS  
Decision and Order**

**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

\* \* \*

**Services not Covered by Home Help**

Home help services must not be approved for the following:

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2). [ASM 101, pages 1-3 of 4.]

Moreover, ASM 120 states:

**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

**Docket No. 2013-39091 HHS  
Decision and Order**

- 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 even with human assistance and/or assistive technology.

Home Help payments may only be authorized for needs assessed at the 3 level 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.

**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. 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.

\* \* \*

**Docket No. 2013-39091 HHS**  
**Decision and Order**

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 adjoining 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.

**Example:** Client has special dietary needs and meals are prepared separately; client is incontinent of bowel and/or bladder and laundry is completed separately; client's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc. [ASM 120, pages 2-4 of 5.]

Here, the Department plans to reduce the HHS authorized for assistance with the tasks of laundry, bathing, and taking medication. The only reason for the reductions offered in the notice, or any of the Department's documentation, is that the changes are being made to reflect a shared household. However, as described in the above policy, a shared household only requires that proration of certain IADLs and the Department's policy of proration does not apply to the tasks of bathing or taking medications. Therefore, the reductions in assistance for those two tasks could not be based on

██████████  
**Docket No. 2013-39091 HHS**  
**Decision and Order**

Appellant's shared household and the notice itself is in error. No other, valid reason for those reductions was identified in the notice or ASW ██████████'s notes or rankings.

Additionally, the reasons offered by the Department's witness during the hearing itself were also improper. For example, while ASW ██████████ testified that the reduction in laundry was based on prorating because of a shared household and laundry is a task that should be prorated, she misapplied the policy in this case.

Laundry assistance was reduced from 49 minutes a day, 1 day a week (or 3 hours and 31 minutes a month), to 35 minutes a day, 1 day a week (or 2 hours and 30 minutes a month).

As a preliminary matter, this Administrative Law Judge would note that it appears that all of Appellant's IADLs that should be prorated, including laundry, had already been prorated as he was ranked in five in all four of those tasks and was previously receiving the maximum prorated amount allowed by policy for laundry, shopping, housework, and meal preparation. Notably, the HHS for assistance with shopping, housework and meal preparation were not prorated or reduced during the most recent assessment. Moreover, even if Appellant's laundry assistance was not previously prorated, the proposed reduction is not prorating the assessed hours by one half, as required by policy.

ASW ██████████ testified that she allocated hours for IADLs and reduced the assistance authorized with respect to laundry based on a proration grid the Department uses and, after the hearing, the Department provided the grid. However, as displayed in the very grid that ASW ██████████ claimed to use, she should have continued to authorize 49 minutes a day, 1 day a week, of laundry assistance. The grid likewise appears to confirm that all IADLs that should be prorated had already been prorated and that any further reduction based on a shared household was improper.

Additionally, the reduction in assistance with taking medications also appears improper. HHS for that task was reduced from 18 minutes a day, 7 days a week, to 2 minutes a day, 7 days a week. As discussed above, no reason for that reduction was identified in the negative action notice. During the hearing, ASW ██████████ testified that she reduced assistance with taking medications to the maximum allowed by policy. However, as clearly described in the above policy, "There are monthly maximum hour limits on all instrumental activities of daily living *except medication*." (ASM 120, page 4 of 5).

Given the above errors and misapplication of policy, the Department's decision to reduce Appellant's HHS must be reversed.

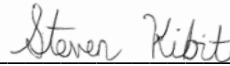
  
Docket No. 2013-39091 HHS  
Decision and Order

**DECISION AND ORDER**


The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that, the Department improperly decided to reduce Appellant's HHS.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision, as amended during the hearing, is **REVERSED**.



\_\_\_\_\_  
Steven J. Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

  
Date Signed: 6/25/2013

Date Mailed: 6/25/2013

cc:



**\*\*\* 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.