

**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:

██████████

Docket No. 2013-41713 HHS

Case No. ██████████

Appellant.

\_\_\_\_\_ /

**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 ██████████. Appellant appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker (ASW) appeared as a witness for the Department.

**ISSUE**

Did the Department properly 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 seizures, left side apastic hemiparesis, severe neck and shoulder pain (arthritis), cyst in brain, anxiety, diabetes, high blood pressure, hernia, damaged intestine, and GERD. (Exhibit A, p 14)
2. Appellant lives in her own home with a roommate. (Testimony)
3. On ██████████, the Department's ASW went to Appellant's home to conduct a reassessment. (Exhibit A, p 11; Testimony) The ASW interviewed Appellant and her caregiver and observed Appellant during the visit. The ASW found that Appellant's caregiver was only coming 5 days per week, but that Appellant had been authorized for services as if tasks were being done 7 days per week. The ASW also noted that Appellant had a roommate, so some of her IADL's needed to be prorated. (Exhibit A, p 15; Testimony)
4. The ASW also submitted copies of Appellant's care logs going back to ██████████. The logs support the ASW's finding that Appellant's caregiver was only coming to Appellant's home, at most, 5 days per week.

(Exhibit B)

5. Following the reassessment, Appellant's HHS was reduced to 35 hours and 49 minutes (\$██████████) per month. (Exhibit A, pp 15-16; Testimony)
6. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing her of the reduction in her HHS. (Exhibit A, pp 7-8; Testimony)
7. Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on ██████████. (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 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 Manuals 361 (6-1-07) (hereinafter "ASM 361") and Adult Services Manual 363 (9-1-08) (hereinafter "ASM 363") address the issues of what services are included in Home Help Services and how such services are assessed:

#### **Home Help Payment Services**

Home help services (HHS, or personal care services) are non-specialized personal care service activities provided under ILS to persons who meet eligibility requirements.

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.

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.

(ASM 361, page 2 of 5)

**COMPREHENSIVE ASSESSMENT**

The Adult Services Comprehensive Assessment (DHS-324) is the primary tool for determining need for services. The comprehensive assessment will be completed on all open cases, whether a home help payment will be made or not. ASCAP, the automated workload management system provides the format for the comprehensive assessment and all information will 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.
- An interview must be conducted with the caregiver, if applicable.
- Observe a copy of the client's social security card.
- Observe a picture I.D. of the caregiver, if applicable.

- 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.
- Follow specialized rules of confidentiality when ILS cases have companion APS cases.

### **Functional Assessment**

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS 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 ADL's and IADL's 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.

**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.

IADL Maximum Allowable Hours

There are monthly maximum hour limits on all IADLs 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

These are **maximums**; as always, if the client needs fewer hours, that is what must be authorized. Hours should continue to be prorated in shared living arrangements.

### **Necessity For Service**

The adult services worker is responsible for determining the necessity and level of need for HHS based on:

- Client choice.
- A complete comprehensive assessment and determination of the client's need for personal care services.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need. The Medicaid provider identification number must be entered on the form by the medical provider. The Medical Needs form must be signed and dated by one of the following medical professionals:
  - Physician.
  - Nurse practitioner.
  - Occupational therapist.
  - Physical therapist.

(ASM 363, page 9 of 24)

### **Services not Covered by Home Help Services**

Do **not** authorize HHS payment for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2);
- Services provided for the benefit of others;
- Services for which a responsible relative is able and available to provide;
- Services provided free of charge;
- Services provided by another resource at the same time;
- Transportation - See Program Administrative Manual (PAM) 825 for

medical transportation policy and procedures.

- Money management, e.g., power of attorney, representative payee;
- Medical services;
- Home delivered meals;
- Adult day care.

(ASM 363, pages 14-15 of 24)

The ASW testified that on ██████████, she went to Appellant's home to conduct a reassessment. The ASW indicated that following the reassessment she reduced the frequency of tasks to the 5 days per week the provider actually comes to Appellant's home, which resulted in an overall reduction in HHS of approximately 4 hours per week. The ASW also submitted copies of Appellant's care logs going back to ██████████. The logs support the ASW's finding that Appellant's caregiver was only coming to Appellant's home, at most, 5 days per week. On ██████████, the ASW sent Appellant an Advance Negative Action Notice informing her of the reduction in his HHS.

Appellant testified that the ASW told her during the ██████████ visit that she would not be reducing Appellant's hours. Appellant also indicated that the ASW did not document the fact that Appellant is paralyzed on the left side and cannot use her left hand or arm. Appellant also pointed out that she received two slightly different Time and Task reports around the time of her assessment. Appellant admitted that her workers only come 5 days per week and that she has a roommate.

The owner of the Agency that provides HHS to Appellant testified that she has been running the Agency for 9 years and that her workers never go by how many days per week a person is authorized for, they just go by the total number of monthly hours. The owner testified that previous ASW's had allowed 7 days per week so that the time allocated for each task would actually total an amount of time necessary to get the work done. The owner indicated that her workers never falsify documents.

Appellant's provider testified that since Appellant's hours have been cut, she does not have enough time each month to complete all of the tasks Appellant needs assistance with. Appellant's provider also testified that Appellant has been extremely stressed since her hours have been reduced.

Appellant's roommate reiterated that Appellant has been upset constantly since her hours have been cut. Appellant's roommate testified that he helps out where he can, but that he is limited in what he can do because of his disability.

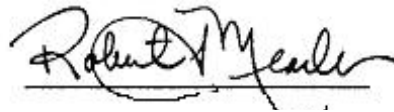
Based on the evidence presented, Appellant has failed to prove, by a preponderance of evidence, that the reduction in HHS was inappropriate. The ASW reviewed Appellant's ADL's and IADL's with her and based her rankings on what was told to her during the assessment. Clearly, Appellant was previously allotted time for tasks based on a provider coming to Appellant's home 7 days per week when, in fact, the provider was only coming 5 days per week. The Department's ASW properly calculated Appellant's HHS based on policy and the information provided by Appellant at their meeting.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.



Robert J. Meade  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

[REDACTED]  
cc: [REDACTED]

Date Signed: 7/3/2013

Date Mailed: 7/3/2013

**\*\*\* 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.