

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

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IN THE MATTER OF:

Docket No. 2013-42471 HHS

████████████████████

██████████

██████████

Appellant.

_____ /

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's sister/DPOA ██████████ appeared and testified on Appellant's behalf. ██████████ ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, ██████████ County Adult Services Worker (ASW), 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 (██████████) Medicaid beneficiary. (Testimony).
2. Appellant has been diagnosed with mild mental retardation, high cholesterol, HTN, incontinence, and headaches. (Exhibit A, p. 8).
3. On ██████████, ██████████ ASW, did a home visit with the Appellant and her provider to determine Appellant's continued eligibility for HHS. The ASW noted her time and task sheet did not list any services to assist with the Appellant's ADLs. The ASW was advised that the Appellant did not need any personal or ADL care, that she could handle her ADLs on her own. The ASW then advised since the Appellant did not need assistance with her ADLs, he could not keep her case open. (Exhibit A, pp. 14, 16).

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4. On [REDACTED], the Department issued an Advance Action Notice to Appellant informing her that her HHS would be terminated effective [REDACTED], because her most recent assessment did not identify a need for hands on assistance with at least one activity of daily living (ADL). (Exhibit A, pp. 6, 9-11 and testimony).
5. On [REDACTED] MAHS received 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.

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.

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- 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.

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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.

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- 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

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:

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- 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.

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, emphasis added].

Here, ASW Urban testified that on [REDACTED] he sent out an Advance Negative Action Notice to the Appellant stating that her HHS would be terminated effective [REDACTED], because her most recent assessment did not identify a need for hands on assistance with an activity of daily living (ADL).

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██████████ ASW for ██████████ County, stated he received Appellant's case as a transfer from ██████████. Appellant's file showed she was only receiving services for IADLs, medication, housework, laundry, shopping, and meal preparation. The ASW noted her time and task sheet did not list any services to assist with the Appellant's ADLs. (See Exhibit A, p. 14). On ██████████, the ASW did a home visit with the Appellant and her sister/provider to determine Appellant's continued eligibility for HHS. The ASW was advised by the Appellant and her provider that the Appellant did not need any personal or ADL care, that she could handle her ADLs on her own. The ASW then advised since the Appellant did not need assistance with her ADLs, he could not keep her case open.

The ASW referenced the policy on eligibility for HHS, (ASM 120, page 3 of 5), and stated HHS may only be authorized for needs assessed at the 3 level or greater and that an individual must be assessed with at least one activity of daily living in order to be eligible to receive HHS. The ASW concluded that this policy supported the negative action he took in this case.

During the hearing, Appellant's sister indicated the Appellant lives in a trailer with a friend. Appellant's sister indicated Appellant does have a problem with incontinence, but the ASW was not informed of this during the assessment. Appellant's sister stated the Appellant was developmentally disabled and had previously received services through ██████████ Community Mental Health. She stated she hasn't been able to get CMH services in ██████████ County.

Appellant's sister stated she thinks the Appellant is deserving of services. She stated the Appellant needs assistance with paying her bills, shopping, and some assistance with meal preparation. Appellant's sister stated she sometimes does the Appellant's hair, clips her toenails, and reminds her to brush the hair on the back of her head. When asked if Appellant mostly needed prompting, Appellant's sister stated no, the Appellant was pretty high functioning, she could cook for herself in the microwave, on an electric fry pan, and in a slow cooker. Appellant's sister indicated the Appellant is unable to use the stove to cook her meals, so she comes over on occasion to make home cooked meals for her on the stove. Appellant's sister acknowledged that the assessment done by the ASW was accurate and correct.

The preponderance of the evidence in this case, including the information available to the ASW from Appellant's file and that gathered at the home visit on ██████████ showed that the Appellant did not need assistance with any of her ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if the individual has need for assistance with an ADL. See ASM 120, page 3 of 5. 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.

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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]

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.