

**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. 2013-51438 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 Supervisor and ██████████, Adult Services Worker (ASW) appeared as witnesses 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 who has been diagnosed with severe asthma and carpal tunnel. (Exhibit A, p 19)
2. Appellant lives in a single family home with her two young children. (Testimony)
3. On ██████████, 2013, the Department's ASW conducted a reassessment with Appellant in her home. (Exhibit A, pp 16-17; Testimony)
4. On ██████████, the Department's ASW met with Appellant's provider at the DHS office to complete Appellant's reassessment. (Exhibit A, p 16)
5. During the reassessment, the only Activity of Daily Living (ADL) Appellant indicated she needed assistance with was grooming. Appellant indicated that her provider braids her hair two times per week because Appellant cannot reach up to comb her own hair. Appellant's provider confirmed that she helps Appellant with her hair two to three times per week. (Exhibit A, pp 16-17; Testimony) Appellant's provider also indicated that she helps

Appellant open her medication bottles, even though, in the provider's opinion, Appellant can open her own medication bottles. (Exhibit A, p 16)

6. On ██████████, the ASW called Appellant's doctor's office to verify the information on Appellant's medical needs form. The doctor's office informed the ASW that the medical needs form in their file did not have grooming circled. The doctor's office faxed the form to the ASW. (Exhibit A, p 23). The medical needs form Appellant submitted had grooming circled. (Exhibit A, p 24)
7. On ██████████, the ASW spoke to Appellant's doctor, who informed the ASW that he did not circle grooming on Appellant's medical needs form and that Appellant can groom herself. Appellant's doctor also informed the ASW that Appellant can drive without any restrictions. (Exhibit A, p 18)
8. Based on her meeting with Appellant and Appellant's provider, as well as her review of Appellant's actual medical needs form, the ASW determined that Appellant was no longer eligible for HHS because she did not have a need for hands on assistance, functional ranking 3 or greater, with at least one ADL. (Exhibit A, p 18; Testimony)
9. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing her that her HHS would be terminated effective ██████████. (Exhibit A, p 5; Testimony)
10. 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.

(ASM 363, pages 2-4 of 24)

#### **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 conducted a reassessment with Appellant in her home. On ██████████, the ASW met with Appellant's provider at the DHS office to complete Appellant's reassessment. During the reassessment, the only Activity of Daily Living (ADL) Appellant indicated she needed assistance with was grooming. Appellant indicated that her provider braids her hair two to three times per week because Appellant cannot reach up to comb her own hair. Appellant's provider confirmed that she helps Appellant with her hair two to three times per week. (Exhibit A, pp 16-17; Testimony) Appellant's provider also indicated that she helps Appellant open her medication bottles, even though, in the provider's opinion, Appellant can open her own medication bottles. (Exhibit A, p 16)

The ASW testified that on ██████████, she called Appellant's doctor's office to verify the information on Appellant's medical needs form. The doctor's office informed the ASW that the medical needs form in their file did not have grooming circled. The doctor's office faxed the form to the ASW. (Exhibit A, p 23). The medical needs form Appellant submitted had grooming circled. (Exhibit A, p 24)

The ASW also testified that on ██████████, she spoke to Appellant's doctor, who informed the ASW that he did not circle grooming on Appellant's medical needs form and that Appellant can groom herself. Appellant's doctor also informed the ASW that Appellant can drive without any restrictions.

Based on her meeting with Appellant and Appellant's provider, as well as her review of Appellant's actual medical needs form, and her discussion with Appellant's doctor, the

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ASW determined that Appellant was no longer eligible for HHS because she did not have a need for hands on assistance, functional ranking 3 or greater, with at least one ADL. The ASW also testified that during the reassessment, she noted that Appellant was able to drive because she drove up to the home prior to the reassessment. The ASW also noted that Appellant used no medical adaptive equipment during the reassessment, except for her nebulizer. The ASW also noted that most of the medication in Appellant's home had expired. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing her that her HHS would be terminated effective ██████████.

Appellant testified that her doctor meant to circle grooming on the medical needs form, but forgot, so the doctor gave her permission to circle it. Appellant indicated that she has since contacted her doctor's office and they have provided her a new form to include grooming. (See Exhibit 1, p 5, Medical Needs Form dated ██████████)

Appellant indicated that she wears braces on both hands for her carpal tunnel syndrome and leg splints at night. Appellant indicated that sometimes her hands do not work at all, that sometimes she cannot zip a zipper or button a button, or raise her hands above her head. Appellant indicated that she was not willing to talk too extensively to the ASW during the reassessment because the ASW was rude and belittling towards her. Appellant indicated that she just wanted the ASW out of the house as soon as possible. Appellant admitted that she did not provide the ASW with the medical documentation she included with her request for hearing because she had never needed such documentation with her previous ASW. Appellant testified that her doctor has recommended that she swim for exercise, but that she has not been able to do so yet. Appellant also indicated that she can drive and has no restrictions on her license, but can only drive short distances.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of evidence, that the termination of her HHS was inappropriate. The evidence showed that the only ADL Appellant was ranked 3 or higher on in the past was grooming and that Appellant's doctor's office confirmed that they had not certified that Appellant needed hands on assistance with grooming. In fact, Appellant's doctor's office informed the ASW that Appellant was capable of grooming herself. While Appellant's doctor may have changed that opinion based on the ██████████ Medical Needs Form, that form postdates the Department's decision and is, as such, irrelevant to the issue on appeal.

The evidence was not sufficient to establish that Appellant had a need for hands on assistance, functional ranking 3 or greater, with at least one ADL, based on the information available to the ASW when she terminated Appellant from the HHS program. The ASW provided credible, detailed testimony regarding her observations of, and discussions with, Appellant and her provider. Accordingly, the termination of Appellant's HHS is upheld.


Appellant may wish to reapply for HHS using the new Medical Needs Form and the medical documentation she submitted with her hearing request.

**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 terminated 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: 9/19/2013

Date Mailed: 9/19/2013

**\*\*\* 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 must 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.