

**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.** 2013-52400 HHS

██████████

██████████

**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 ██████████ ██████████ the Appellant, appeared on his own behalf. ██████████ Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), and ██████████ Adult Services Supervisor, appeared as witnesses for the Department.

**ISSUES**

- 1) Did the Department properly assess the Appellant's Home Help Services ("HHS") case?
- 2) Did the Department properly terminate the Appellant's HHS case?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a Medicaid beneficiary who applied for the HHS program on or about ██████████. (Exhibit 1, page 12)
2. The Department has received medical certification that the Appellant has been diagnosed with right shoulder rotator cuff injury and right elbow nerve damage. The Appellant has also reported additional diagnoses of emphysema and vision problems-abnormal blood vessels. (Exhibit 1, page 14; Exhibit 2)

3. On ██████████, the Appellant's doctor completed a DHS-54A Medical Needs form certifying that the Appellant had a medical need for assistance with meal preparation, shopping, laundry, and housework. (Exhibit 2)
4. On ██████████, the ASW went to the Appellant's home and completed an initial assessment for the Appellant's HHS case. The ASW understood that the Appellant needed some assistance with bathing on some days, but could complete the other Activities of Daily Living ("ADL"s) himself. The ASW also understood that the Appellant needed some assistance with the Instrumental Activities of Daily Living ("IADLs"), medications, housework, shopping, and laundry and meal preparation. (Exhibit 1, pages 6 and 15; ASW Testimony)
5. Based on the available information, the ASW concluded that the Appellant has a need for some hands on assistance, functional ranking 3, with bathing, medication, housework, laundry, shopping and meal preparation. (Exhibit 1, page 15; ASW Testimony)
6. The ASW authorized a total of ██████ hours and ██████ minutes of HHS per month for the Appellant with a total monthly care cost of ██████. (Exhibit 1, page 17)
7. On ██████████, the Department issued a Services and Payment Approval Notice to the Appellant. In part, this notice also stated the Appellant should call the ASW regarding hiring a provider. (Exhibit 1, pages 10-11)
8. The Appellant called the ASW and let her know he could not find anyone to be his provider for the ██████ HHS authorization amount. (Uncontested) The ASW indicated the Appellant did not indicate additional needs that would be covered under the HHS program to support an increase in the HHS authorization, but did mention he needs help with his two little children. (ASW Testimony)
9. On ██████████, the Department sent the Appellant an Advance Action Notice, which informed him that effective ██████████ the HHS case would be terminated because the ASW had not heard from the Appellant about hiring a provider. The ASW asked if the Appellant had found someone and if he still needed paid help. The ASW asked the Appellant to call her about this. (Exhibit 1, pages 7-9)
10. On ██████████, the Appellant's HHS case was closed. (Exhibit 1, page 12)
11. On ██████████, the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, page 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 (ASM) 101, 11-1-11, addresses HHS payments:

### **Payment Services Home Help**

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.

*Adult Services Manual (ASM) 101,  
11-1-2011, Page 1of 4.*

Adult Services Manual (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

### **Requirements**

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

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### **Necessity For Service**

The adult services specialist is responsible for determining the necessity and level of need for home help services based on:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. 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.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

*Adult Services Manual (ASM) 105,  
11-1-2011, Pages 1-3 of 3*

Adult Services Manual (ASM 120, 5-1-2012), pages 1-4 of 5 addresses the adult services comprehensive assessment:

### **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 will 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.
- 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. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS 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.
- 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 even with human assistance and/or assistive technology.

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

**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 IADLs if the assessment determined 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.

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### **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.**

**Example:** A client needs assistance with cutting up food. The specialist would only pay for the time required to cut the food and not the full amount of time allotted under the RTS for eating.

### 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.

*Adult Services Manual (ASM) 120, 5-1-2012,  
Pages 1-5 of 5*

Certain services are not covered by HHS. ASM 101 provides a listing of the services not covered by HHS.

### **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).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.

- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

**Note:** The above list is not all inclusive.

*Adult Services Manual (ASM) 101, 11-1-2011,  
Pages 3-4 of 4.*

Adult Services Manual (ASM) 150, addresses notification of eligibility determinations:

### **Written Notification of Disposition**

All notifications are documented under ASCAP contacts when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter includes an explanation of the procedures for requesting an administrative hearing.

The adult services specialist **must sign** the bottom of the second page of all notices (DHS-1210, DHS-1212A, DHS-1212) before they are mailed to the client.

### **Services Approval Notice (DHS-1210)**

#### Notification Services Have Been Approved

If independent living services (non-payment services) or adult community placement services are approved, the DHS-1210, Services Approval Notice, is sent indicating what services have been authorized.

If home help services will be authorized, note the amount and the payment effective date. Print and attach a copy of the Time and Task worksheet. The DHS-1210 is completed and generated through the Adult Service Comprehensive Assessment Program (ASCAP).

#### Notification Services Have Been Increased

The DHS-1210 must also be used when there is an increase in the amount of home help services on an open case. Appropriate notations must be entered in the comment section. A copy of the Time and Task worksheet must be printed and sent with the notice.

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### **Advance Negative Action Notice (DHS-1212)**

The DHS-1212, Advance Negative Action Notice, is used and generated on ASCAP when there is a reduction, suspension or termination of services. Appropriate notations must be entered in the comment section to explain the reason for the negative action.

- Reduced - decrease in payment.
- Suspended - payments stopped but case remains open.
- Terminated - case closure.

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### **Negative Actions Requiring Ten Day Notice**

The effective date of the negative action is ten business days **after** the date the notice is mailed to the client. The effective date must be entered on the negative action notice.

*Adult Services Manual (ASM) 150, 11-1-2011,  
Pages 1- 2 of 4.*

Adult Services Manual (ASM) 140 addresses payment authorizations:

No payment can be made unless the provider has been enrolled in Bridges.

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Home help services payments to providers must be:

- Authorized for a specific period of time and payment amount. The task is determined by the comprehensive assessment in ASCAP and will automatically include tasks that are a level three or higher.

- Authorized **only** to the person or agency actually providing the hands-on services.

**Note:** An entity acting in the capacity of the client's fiscal intermediary is not considered the provider of home help and **must not** be enrolled as a home help provider; see ASM 135, Home Help Providers.

- Made payable jointly to the client and the provider.

**Exception:** Authorizations to home help agency providers are payable to the provider only. There are circumstances where payment authorizations to the provider only are appropriate, for example, client is physically or mentally unable to endorse the warrant. All single party authorizations must be approved by the supervisor.

*Adult Services Manual (ASM) 140, 11-1-2011,  
Page 1 of 3.*

Adult Services Manual (ASM) 170 addresses suspensions of HHS payments rather than case closure:

**Note:** Adult services specialists may chose to suspend payments, and delay case closure, if it appears the situation may be temporary.

*Adult Services Manual (ASM) 170, 11-1-2011,  
Page 1 of 2.*

On or about [REDACTED], the Appellant applied for the HHS program. (Exhibit 1, page 12)

On [REDACTED], the Appellant's doctor completed a DHS-54A Medical Needs form documenting diagnoses of right shoulder rotator cuff injury and right elbow nerve damage. The doctor certified that the Appellant had a medical need for assistance with meal preparation, shopping, laundry, and housework. (Exhibit 2)

On [REDACTED], the ASW went to the Appellant's home and completed an initial assessment for the Appellant's HHS case. The ASW understood that the Appellant had some limitations with range of motion and needed some assistance with bathing on some days, but could complete the other ADLs himself. The ASW also understood that the Appellant needed some assistance with the IADLs, medications, housework, shopping, and laundry and meal preparation. The ASW explained there are parts of the

IADLs she understood the Appellant could complete and parts he would need assistance with. The ASW also stated that at the home visit, the Appellant indicated some people were helping him but they did not want to be enrolled as HHS providers. (Exhibit 1, pages 6 and 15; ASW Testimony)

Based on the available information, the ASW concluded that the Appellant has a need for some hands on assistance, functional ranking 3, with bathing, medication, housework, laundry, shopping and meal preparation. (Exhibit 1, page 15; ASW Testimony) The ASW authorized a total of █████ hours and █████ minutes of HHS per month for the Appellant with a total monthly care cost of █████. (Exhibit 1, page 17)

On █████, the Department issued a Services and Payment Approval Notice to the Appellant. The notice also stated the Appellant should call the ASW regarding hiring a provider. (Exhibit 1, pages 10-11) The Appellant called the ASW and let her know he could not find anyone to be his provider for the █████ HHS authorization amount. (Uncontested) The ASW indicated the Appellant did not indicate additional needs that would be covered under the HHS program to support an increase in the HHS authorization, but did mention he needs help with his two little children. (ASW Testimony)

On █████, the Department sent the Appellant an Advance Action Notice, which informed him that effective █████ the HHS case would be terminated because the ASW had not heard from the Appellant about hiring a provider. The ASW asked if the Appellant had found someone and if he still needed paid help. The ASW asked the Appellant to call her about this. (Exhibit 1, pages 7-9)

The Appellant disagrees with the amount of the HHS authorization and testified he cannot find anyone to do the work █████ days per week for █████. (See Exhibit 1, page 17) The Appellant indicated that when he called the ASW after receiving the approval notice, he asked the ASW to increase the authorization to █████ days per week. The Appellant stated that at the time of the home visit his hand was bandaged to the elbow and he could not do anything. The Appellant also explained that he lives upstairs so he cannot carry things to go up and down the stairs with one hand. Further, the Appellant cannot mop, wipe dishes well or clean the tub and toilet. However, the Appellant's testimony indicated that there have been at least some changes in his functional abilities and needs for assistance since the ASW's initial assessment. For example, the Appellant can now complete bathing on his own. Yet, the Appellant's functional abilities and needs for assistance are likely to change again because the Appellant is going to have another hand surgery. (Appellant Testimony)

The ASW's functional ranking determinations and authorizations of HHS hours are consistent with the evidence of the Appellant's functional abilities and needs for assistance at the time of the initial assessment. The ASW even authorized some HHS hours for bathing and medications despite the Appellant's doctor's indication on the DHS-54A medical Needs from based on her understanding of the Appellant's limitations with his right arm and hand. (Exhibit 1, pages 15 and 17; Exhibit 2) As indicated in the above cited policy, the HHS program authorizations are based on the times needed to

assist the individual with specific activities included in the HHS program. Additional HHS hours cannot be granted to help with the Appellant's children. Additional HHS hours also cannot be authorized just to allow more days per week or to increase the authorization amount so it is easier to find a provider. The Department's determinations regarding the initial assessment and HHS authorization is upheld.

Further, the above cited policy indicates that a suspension of a HHS case can only be considered instead of case closure when it appears the situation may be temporary. The Appellant's statements that he could not find a provider willing to work for the HHS payment authorization amount did not appear to be a temporary situation. Further, there was no evidence that the Appellant called the ASW after the advance notice of the HHS termination was issued to further discuss options for finding a provider, assistance the ASW may be able to provide with finding a provider, and to verify that he still needed paid assistance. The Department's determination to terminate the Appellant's HHS case when there was still no enrolled HHS provider and there had been no further communication from the Appellant about this or verifying he still needed paid assistance is also upheld.

The Appellant's testimony indicates there may be some changes in his condition, functional abilities and needs for assistance when he has his next surgery. The Appellant may wish to re-apply for the HHS program at any time and provide updated medical verification.

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decisions are AFFIRMED.

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/s/  
Colleen Lack  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]  
Docket No. 2013-52400 HHS  
Decision and Order

CL/db

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[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.