

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

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IN THE MATTER OF:

██████████,

Appellant

Docket No. 2013-55102 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, ██████████, ██████████, guardian, represented the Appellant. Her witness was ██████████, CMH case manager/social worker. ██████████, represented the Department. Her witness was ██████████, ASW.

ISSUE

Did the Department properly reduce the Appellant Home Help Services (HHS) via application of its shared household policy?

FINDINGS OF FACT

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

1. At the time of hearing the Appellant is a ██████-year-old Medicaid beneficiary. (Appellant's Exhibit 1)
2. The Appellant is afflicted with Spina Bifida hydrocephalus, paraplegia, and MR. He is confined to a wheelchair. (Department's Exhibit A, p. 9)
3. On ██████████, the ASW (██████████) sent the Appellant an Advance Negative Action Notice informing him that HHS would be reduced to reflect a shared household in the amount of \$ ██████ per month effective ██████████. (Department's Exhibit A, pp. 2, 6)
4. The ASW testified that on face-to-face home visit ██████████] the Appellant was assessed at his home. The providers ██████████] were present.

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5. The “total care” Appellant was discovered to have a housemate renting a room “to keep costs down.”
6. This information triggered the only reduction on in-home assessment as the Department is required under policy to pro rate for a shared household – except in very limited circumstances. (See Testimony of ASW and Department’s Exhibit A, p. 13)
7. The Appellant’s representative said that the tenant shared no services – he merely slept at the home. (See Testimony.)
8. The instant appeal was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on [REDACTED]. (Appellant’s 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 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.

COMPREHENSIVE ASSESSMENT

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 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.

....

Adult Service Manual (ASM), §120, page 1 of 5, 5-1-2012

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, home help services only for the benefit of the client

....

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.

(Emphasis supplied) *Supra*, p. 4 of 5.

The Department witness testified that on in-home assessment the evidence showed that the Appellant was living in a shared household arrangement - owing to his observation of a housemate.

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The Appellant's representative testified that the housemate only slept at the home and made no use of common areas or any of the Appellant's HHS (IADL) services.

On review, application of the shared household policy was applied based on the credible evidence and supported observations of the ASW in the home. It was supported by the Department's exhibit – and by the testimony of the ASW.

The Home Help Services program is not a static provider of payment. It is anticipated that benefit levels will wax and wane during the course of HHS enrollment. This is necessary to account for or adjust to changes in the client's physical condition or living arrangement.

But, because the Appellant must preponderate his burden of proof – in this case to establish that the Appellant's arrangements with his housemate were "clearly documented" - his case fails for lack of proof.¹

The Administrative Law Judge finds that the comprehensive assessment was accurate when made and that it was drawn according to policy. Based on the information presented at hearing I found the proration policy to be correctly applied.

The Appellant has failed to preponderate his burden of proof.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly applied proration policy in the reassessment of Appellant's HHS payment.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

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

¹ Terms of the relevant lease enjoyed by the housemate, or perhaps his testimony, could have been useful examples of supporting evidence "clearly documenting" the limited exemption under the shared household policy based on these facts.

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cc:



Date Signed: October 22, 2013

Date Mailed: October 22, 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.