

**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

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**Docket No.** 2013-55527 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 ██████████ ██████████ mother, represented the Appellant. ██████████ the Appellant, appeared and testified. ██████████ ██████████, brother, appeared as a witness for the Appellant. ██████████ Appeals Review Officer, represented the Department. ██████████ Adult Services Worker ("ASW"), appeared as a witness for the Department.

**ISSUE**

Did the Department properly terminate the Appellant's Home Help Services ("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 had been authorized for HHS.
2. The Appellant has been diagnosed with hyperthyroidism, diabetes, obesity, mood disorder, cognitive dysfunction, bipolar and sleep apnea. (Exhibit 1, pages 8 and 20-22)
3. The Appellant had been receiving HHS for assistance with the Activity of Daily Living ("ADL") of dressing as well as the Instrumental Activities of Daily Living ("IADLs") of medication, housework, shopping, laundry and meal preparation. (Exhibit 1, pages 11-16)
4. On ██████████ the ASW went to the Appellant's home and completed an in-home assessment for a redetermination of the Appellant's HHS

case. The Appellant as well as his mother, brother and sister were present. The ASW went over Appellant's functional abilities and needs for assistance with the ADLs and IADLs included in that HHS program. (Exhibit 1, pages 11-16 and 23-28; ASW Testimony)

5. On [REDACTED], the ASW spoke with the Appellant's doctor's office. (Exhibit 1, page 17)
6. Based on the available information, the ASW concluded that the Appellant did not have a need for hands on assistance, functional ranking 3 or greater, with any ADLs. (Exhibit 1, pages 11-17 and 23-28; ASW Testimony)
7. On [REDACTED], the Department sent the Appellant an Advance Action Notice, which informed him that effective [REDACTED] the HHS case would be terminated because after the redetermination of services, it was determined he no longer qualified for the program. The Appellant did not meet minimal qualifications as even his provider states she only assists him with the IADL tasks. (Exhibit 1, pages 5-7)
8. On [REDACTED], the request for hearing filed on the Appellant's behalf was received by the Michigan Administrative Hearing System. On [REDACTED] the request for hearing was resubmitted with the Appellant's signature. (Exhibit 1, page 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.

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 1 of 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.*

The Appellant had been receiving HHS for assistance with the ADL of dressing as well as the IADLs of medication, housework, shopping, laundry and meal preparation. (Exhibit 1, pages 11-16)

On ██████████, the ASW went to the Appellant's home and completed an in-home assessment for a redetermination of the Appellant's HHS case. The Appellant as well as his mother, brother and sister were present. The ASW went over Appellant's functional abilities and needs for assistance with the ADLs and IADLs included in that HHS program. The reported statements about the Appellant's abilities and needs, as

well as the ASW's observations during the home visit were not always consistent. For example, there were conflicting statements regarding putting on socks/shoes and the Appellant's ability to bend over. At one point, the ASW observed the Appellant bend over to pick up his mother's purse, even though a prior demonstration of how far he could bend in the context of putting on socks/shoes indicated he was unable to do this. Additionally, the Appellant's mother acknowledged during the home visit that she had altered the DHS-54A Medical Needs form by circling additional listed activities. On ██████████, the ASW spoke with the Appellant's doctor's office about the Appellant's functional abilities and needs for assistance. In part, the medical assistant stated that she feels both the Appellant is capable of doing much more than his mother lets on, such as bending, picking up his room, taking out the trash and other chores. Based on the available information, the ASW concluded that the Appellant did not have a need for medical need for hands on assistance, functional ranking 3 or greater, with any ADLs. Accordingly, the ASW determined that the Appellant's HHS case must be terminated. (Exhibit 1, pages 11-17 and 23-28; ASW Testimony)

The Appellant and his mother disagree with the termination of his HHS case. They asserted that the Appellant continues to need hands on assistance with putting on his socks/shoes because he cannot bend to do this himself. Additionally, the Appellant stated he can lift his leg up but still cannot put his shoes on. The Appellant's mother further stated the Appellant walks on the heels of his shoes when he tries to do it himself. (Appellant and Mother Testimony)

The Appellant's mother is not trying to get more money, just the money to help her sons like she was doing. The Appellant cannot do things for himself, for example he does not know when he is walking around with wet pants and has to be told when to take a bath. The Appellant's mother also provides hands on assistance with additional parts of ADLs, like shaving the Appellant. The Appellant's mother further provided testimony regarding the Appellant's abilities and needs for assistance with IADLs like shopping, laundry and housework. Additionally, the Appellant's mother disputed the accuracy of several areas of the ASW's narrative notes from the home visit, such as whether the Appellant ate multiple times during the home visit. The Appellant and his brother, no matter their ages, need help and the Appellant's mother wants to be the one to care for them. (Mother Testimony)

The Appellant did not deny that he is lazy. The Appellant does help out when he can; this is his job to help his parents like they help him. The Appellant tries to help with carrying clothes down stairs and bringing groceries in. The Appellant also acknowledged that he uses a towel to wipe himself for toileting and he does not want his mother to do this. (Appellant Testimony)

The Appellant's bother testified the Appellant has a hard time putting on socks/shoes and explained that the Appellant is heavysset. It is hard for the Appellant to care for himself. This is why their mother cares for them. (Brother Testimony)

The Appellant's mother also noted that the legal basis listed on the Advance Action Notice was a bunch of numbers that she did not understand before the Appellants HHS case stopped. (Mother Testimony) The screen shots of the ██████████ Advance



[REDACTED]  
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CL/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.