

**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.** 2013-56599 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.*, and upon a request for a hearing filed on behalf of Appellant/Petitioner.

After due notice, a hearing was held on ██████████. ██████████, one of Appellant's daughters, appeared and testified on Appellant's behalf. Some of Appellant's other children also testified as witnesses for Appellant: ██████████, daughter; ██████████, daughter; ██████████, daughter and Appellant's conservator; and ██████████, son and Appellant's care provider. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from the Midland County DHS appeared as witnesses for the Department.

**ISSUE**

Did the Department properly reduce 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 degenerative arthritis, scoliosis, osteopenia, coronary artery disease, hypertension, and hyperlipidemia. Appellant also suffered a spinal injury and a rotator cuff tear in the past. (Respondent's Exhibit A, page 18).
2. Appellant has been receiving HHS since April 23, 2006. (Respondent's Exhibit A, page 16).
3. Prior to the negative action at issue in this appeal, Appellant was approved for HHS in the amount of 90 hours and 5 minutes per month, with a total care cost of \$720.68 per month. (Respondent's Exhibit B, page 9).

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4. Specifically, HHS had been authorized for assistance with bathing, grooming, transferring, mobility, taking medications, light housework, laundry, shopping, meal preparation, specialized skin care, and wound care. (Respondent's Exhibit B, page 9).
5. On [REDACTED], ASW [REDACTED] conducted a home visit and reassessment of Appellant's services. (Respondent's Exhibit A, page 15).
6. Following that visit and reassessment, ASW [REDACTED] decided to adjust Appellant's services. Assistance with transferring and mobility was removed while assistance with taking medications and housework was reduced. Assistance with meal preparation was increased and assistance with toileting was added. (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).
7. Overall, Appellant's HHS would be reduced to 79 hours and 1 minute a month, with a total monthly care cost of \$ [REDACTED]. (Respondent's Exhibit B, page 9).
8. On [REDACTED], ASW [REDACTED] sent Appellant written notice that her HHS would be reduced to \$ [REDACTED] on [REDACTED] due to the recent review. (Respondent's Exhibit A, pages 11-14).
9. While ASW [REDACTED] knew that Appellant had a conservator and would normally send written notice of a negative action to the conservator as well, he failed to send any notice to the conservator in this case. (Testimony of [REDACTED]).
10. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a request for hearing in this matter. (Respondent's Exhibit A, pages 3-9).

**CONCLUSIONS OF LAW**

**Jurisdiction**

As a preliminary matter, the Department's representative moved for dismissal at the onset of the hearing on the basis that Appellant's Request for Hearing was untimely.

The Social Security Act and the federal regulations which implement the Social Security Act require an opportunity for fair hearing to any recipient who believes the Department may have taken an action erroneously. See 42 CFR 431.200 *et seq.* However, the opportunity for fair hearing is limited by a requirement that the request be made within 90 days of the Department's mailing of the notice of action:

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Request for hearing.

\* \* \*

(d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing.

*42 CFR 431.221(d)*

Therefore, this Administrative Law Judge only has jurisdiction to hear cases brought timely.

Here, Appellant is appealing the reduction in her HHS. The Department mailed notice of that action to Appellant on [REDACTED], but the Request for Hearing was not stamped as received by MAHS until [REDACTED]. Accordingly, it appears that the appeal was filed after the 90 day deadline and is therefore untimely.

However, as argued by Appellant's representative, the notice of action should have also been sent to Appellant's conservator. No such notice was sent in this case, despite the fact that the Department was aware that Appellant has a conservator and, as conceded by ASW [REDACTED], the Department would typically send notice to a conservator as well. Given the questions regarding notice, this Administrative Law Judge finds that the Request for Hearing was timely filed and that he has jurisdiction to hear this matter.

### **Reduction**

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. Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") and Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed. In part, ASM 101, pages 1-3 of 4, provides:

#### **Home Help Payment Services**

Home Help Services are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

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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.

Home Help Services are defined as those tasks which the department is paying for through Title XIX (Medicaid) funds. These services are furnished to individuals who are **not** currently residing in a hospital, nursing facility, licensed foster care home/home for the aged, Intermediate Care Facility (ICF) for persons with developmental disabilities or institution for mental illness.

These activities must be certified by a Medicaid enrolled medical professional and may be provided by individuals or by private or public agencies. **The medical professional does not prescribe or authorize personal care services.** Needed services are determined by the comprehensive assessment conducted by the adult services specialist.

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.

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

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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

\* \* \*

**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).

Moreover, ASM 120, pages 2-4 of 5, states:

**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

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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 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 IADL's if the assessment determines 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.

\* \* \*

### 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

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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.

In this case, following a visit and reassessment, the Department decided to adjust Appellant's services. Assistance with transferring and mobility was removed while assistance with taking medications and housework was reduced. Assistance with meal preparation was increased and assistance with toileting was added. (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9). Overall, Appellant's HHS were reduced to 79 hours and 1 minute a month, with a total monthly care cost of \$██████████. (Respondent's Exhibit B, page 9).

Appellant now challenges the reductions in and terminations of assistance with certain tasks. Appellant also argues that the assistance authorized for other tasks should have been increased.

Each of the disputed tasks will be discussed below. Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in making its decision.

From the reasons discussed below, this Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the Department's actions should be affirmed.

### **Housework**

Here, Appellant's assistance with housework was reduced from 12 minutes a day, 7 days a week (6:01 per month) to 41 minutes a day, 1 day a week (2:56 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

According to ASW ██████████, while Appellant continues to be ranked a "5" in housework and requires total assistance with that task, the authorized time needed to be reduced by one half pursuant to the Department's proration policy because Appellant lives in a shared living arrangement with other adults, *i.e.* her son and daughter-in-law. (Respondent's Exhibit A, page 19; Testimony of ASW ██████████).

In response, Appellant's representative testified and argued that, because of Appellant's hoarding and incontinence, 41 minutes per week for assistance with housework is insufficient. Appellant's representative does not, however, dispute the fact that Appellant lives with other adults. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative).

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Appellant was previously receiving the maximum amount of HHS for assistance with housework allowed by policy. However, given her undisputed shared living arrangement with other adults, the ASW properly applied the proration policy in this case and reduced Appellant's HHS with respect to housework by one half. Appellant's behavior or medical issues may increase the amount of housework that has to be done, but that assistance is still benefitting all the residents in the home and not just Appellant. Accordingly, the housework assistance must be prorated and the Department's decision to reduce Appellant's HHS for that task must be sustained.

### **Mobility**

In this case, Appellant's assistance with mobility was terminated. Previously, Appellant had been authorized for assistance 18 minutes a day, 7 days a week (9:02 per month) for that task. (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

ASW ████████ testified and wrote in his notes that, while he continued to rank Appellant a "3" in mobility due to Appellant's use of cane, he found that Appellant did not need any assistance with that task. According to ASW ████████, he observed Appellant walking independently and she reported that she did not need any physical assistance. Appellant also completed some range of motion exercises while the ASW was present. The ASW further testified that the family reported that Appellant did need assistance outside of the home. (Respondent's Exhibit A, page 19; Testimony of ASW ████████).

Both Appellant's representative and ████████ testified that Appellant only walked a few steps during the home visit and that she usually relies upon a cane or furniture while inside the home. They also testified that Appellant definitely needs assistance with mobility while outside the home. (Testimony of Appellant's representative; Testimony of ████████).

With respect to mobility, Adult Services Manual 121 (11-1-2011), page 3 of 4, provides:

**Mobility** - Walking or moving around inside the living area, changing locations in a room, assistance with stairs or maneuvering around pets, or obstacles including uneven floors.

- 1 No assistance required even though the client may experience some difficulty or discomfort. Completion of the task poses no risk to safety.
- 2 Client is able to move independently with only reminding or encouragement. For example, needs reminding to lock a brace, unlock a wheelchair or to use a cane.
- 3 Minimal hands-on assistance required for specific maneuvers with a wheelchair, negotiating stairs or

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moving on certain surfaces. Without the use of a walker or pronged cane, client would need physical assistance.

- 4 Requires hands-on assistance from another person with most aspects of mobility. Would be at risk if unassisted.
- 5 Totally dependent on other for all mobility. Must be carried, lifted or pushed in a wheelchair or gurney at all times.

Given the above policy, the Department properly terminated Appellant's HHS with respect to mobility. While Appellant may require assistance with mobility outside of her home, HHS are authorized for assistance in the home and, in this case, Appellant walked independently during the assessment. Moreover, even if Appellant does not usually walk independently and requires the use of a cane or furniture, she does not require any direct physical assistance from her provider. Without the need for such assistance, HHS are not necessary and the ASW properly terminated mobility assistance in this case.

### **Transferring**

The Department also terminated Appellant's assistance with transferring. Previously, Appellant had been receiving assistance with transferring 6 minutes a day, 7 days a week (3:01 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

According to ASW ██████████, he terminated Appellant's assistance with transferring after observing Appellant transferring independently during the assessment, in addition to ambulating independently and performing range of motion exercises on her own. (Respondent's Exhibit A, page 19; Testimony of ASW ██████████).

In response, Appellant's representative testified and argued that Appellant needs help getting up from a sitting position approximately 6 times per week. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative).

This Administrative Law Judge finds ASW ██████████ to be credible as to what he observed during the assessment, especially given that his testimony on this issue is undisputed. Based on the ASW's observations of Appellant transferring without any assistance, the Department properly terminated Appellant's assistance with transferring.

### **Medications**

Here, the Department reduced Appellant's assistance with taking medications from 6 minutes a day, 7 days a week (3:01 per month) to 15 minutes a day, 1 day a week (1:04 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

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ASW ██████ wrote in his report and testified during the hearing that he made that reduction based on the reports of Appellant and her family. While Appellant's HHS for medication assistance previously encompassed the provider organizing Appellant's medications and physically giving them to her, Appellant and her family were now reporting that the provider only sorted the medications once a week and supervised Appellant taking them. (Respondent's Exhibit A, page 19; Testimony of ASW ██████).

Appellant's representative testified in response that she misspoke during the assessment when she said that Appellant only required supervision when taking her pills. According to Appellant's representative, the provider must physically hand Appellant her medications each day. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative)

This Administrative Law Judge is limited to reviewing the Department's decision in light of the information available at the time it made that decision. Moreover, the Department is justified in relying upon what is reported. Here, given the reports that Appellant only requires sorting and supervision assistance in taking her medications, the Department properly reduced her HHS with respect to that task. As outlined in the above policy and testified to by ASW ██████, supervision is not covered by HHS.

To the extent Appellant has new or additional information to provide, she is free to request an increase in HHS in the future. However, the Department's past decision to reduce Appellant's assistance with taking medication is affirmed.

**Range of Motion**

During the home visit and assessment at issue in this case, Appellant's daughters requested that assistance with range of motion exercises be added to Appellant's HHS.

ASW ██████ denied that request after Appellant reported and demonstrated that she could complete those exercises on her own. Additionally, ASW ██████ also noted at the time that Appellant's provider was not present during the home visit to confirm or deny that he provided Appellant with assistance with range of motion exercises. (Testimony of ASW ██████).

At a subsequent assessment, Appellant's provider did report that he provided assistance with range of motion exercises and ASW ██████ decided to authorize HHS with respect to that task. (Testimony of ASW ██████). Accordingly, this issue may be moot.

Nevertheless, to the extent the past denial is still at issue, this Administrative Law Judge finds that the Department properly denied the request for range of motion exercises given Appellant's own reports and demonstrations.

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### **Laundry**

Here, Appellant's HHS with respect to laundry remained at 14 hours a day, 7 days a week (7:01 per month) after the assessment at issue in this case. (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

Appellant's representative testified that more assistance with laundry was requested during the assessment. She also testified and argued that the laundry assistance should be increased due to Appellant's incontinence and that fact that Appellant demands to wear the same clothes repeatedly, which means they must be washed more than once a week. Appellant's representative further noted that Appellant's clothing must be washed separately because of her skin condition. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative)

ASW ████████ has already accounted for the fact that Appellant's clothing must be washed separately and he did not prorate Appellant's assistance with laundry. Moreover, he ranked Appellant a "5" in laundry; determined that she requires total assistance with that task; and authorized the maximum amount of HHS allowed by policy for assistance with laundry. (Testimony of ASW ████████)

Given that Appellant is already receiving the maximum amount of HHS allowed by policy for assistance with laundry, the Department properly denied the request for more assistance with that task.

### **Meal Preparation**

Here, the Department increased Appellant's HHS with respect to meal preparation from 20 minutes a day, 7 days a week (10:02 per month) to 30 minutes a day, 7 days a week (15:03 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9). Appellant's representative, however, argues that even more assistance should be authorized.

In allocating assistance with meal preparation, ASW ████████ ranked Appellant a "5" while also noting that Appellant gets her own breakfast; has Meals on Wheels for lunch; and has her provider make her dinners. ASW ████████ also noted that Appellant eats separate meals due to her diabetes and that Appellant can use a microwave. (Respondent's Exhibit A, pages 19-20; Testimony of ASW ████████).

Appellant's representative testified and argued that, because Appellant is unable to chew food and has other medical conditions, special meals must be prepared for Appellant and those meals often take more than 30 minutes a day. She also testified that Appellant does not always eat the meals provided by Meals on Wheels. (Respondent's Exhibit A, page 5; Testimony of Appellant's representative)

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With respect to meal preparation, Adult Services Manual 121 (11-1-2011), page 3 of 4, provides:

**Meal Preparation** - Planning menus. Washing, peeling, slicing, opening packages/cans, mixing ingredients, lifting pots/pans, reheating food, cooking, safely operating stove, setting the table, serving the meal. Washing/drying dishes and putting them away.

- 1 No assistance required.
- 2 Verbal direction, prompting or reminding is required for menu planning, meal preparation or clean up.
- 3 Minimal hands-on assistance required for some meals. Client is able to reheat food prepared by another and/or prepare simple meals/snacks.
- 4 Requires another person to prepare most meals and do clean-up.
- 5 Totally dependent on another for meal preparation.

Here, while Appellant may choose not to always eat the meals provided by Meals on Wheels, that is by choice and it appears that Appellant's provider only needs to prepare one meal a day. Moreover, even if such dinners are specially prepared, 30 minutes a day for dinners is sufficient for the hands-on assistance required in preparing such meals. Accordingly, the Department properly increased Appellant's assistance with meal preparation to 30 minutes per day and denied the request for even more time.

### **Shopping**

With respect to shopping, Appellant has continued to be authorized for assistance in the amount of 30 minutes a day, 2 days a week (4:18 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9). Appellant's representative argues that more time should have been authorized.

In making that authorization, ASW [REDACTED] found that Appellant required total assistance with shopping and ranked her a "5". He also found that, because Appellant special circumstances require separate shopping trips, her assistance with shopping should not be prorated. (Respondent's Exhibit A, page 19; Testimony of ASW [REDACTED]).

Appellant's representative testified and argued that Appellant's medical conditions require special prescriptions that are not available in the local area. Accordingly, the provider must make a 40 minute drive to get those prescriptions. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative).

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As discussed above, the burden is on Appellant to prove by a preponderance of the evidence that the Department erred in denying a request for additional assistance with shopping. Based on the evidence presented in this case, Appellant and her representative have failed to meet that burden. Even accepting the claim that Appellant's provider has to drive approximately 40 minutes for prescriptions, the record does not suggest that the provider would not have to make that trip every day or even every week. Appellant is authorized for an hour a week of shopping assistance (4:18 per month) and it does not appear that more time is justified or necessary.

**Bathing**

Appellant's representative also argues that more time should be authorized for bathing assistance. Currently, Appellant is approved for 40 minutes a day, 7 days a week (20:04 per month) of bathing assistance. (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

According to Appellant's representative, 40 minutes a day is not enough time for bathing assistance because Appellant requires extra care due to her skin problems and other conditions. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative).

ASW ████████ denied the request for additional time and, in fact, may decrease Appellant's assistance with bathing in the future given the significant amount of time she is receiving. ASW ████████ also testified that he believes Appellant's family is confusing bathing with the entire process of getting ready, which may also include grooming and skin care. (Respondent's Exhibit A, page 19; Testimony of ASW ████████).

With respect to bathing, Adult Services Manual 121 (11-1-2011), pages 1-2 of 4, provides:

**Bathing** - helping with cleaning the body or parts of the body using a tub, shower or sponge bath; including getting a basin of water, managing faucets, soaping, rinsing and drying. helping shampoo hair.

- 1 No assistance required.
- 2 Bathes self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.
- 3 Minimal hands-on assistance or assistive technology required to carry out task. Generally bathes self but needs some assistance with cleaning hard to reach areas; getting in/out of tub/shower. Client is able to sponge bath but another person must bring water, soap, towel. Client relies on a bath or transfer bench when bathing. The constant presence of another is not required.

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- 4 Requires direct hand- on assistance with most aspects of bathing. Would be at risk if left alone.
- 5 Totally dependent on others in all areas of bathing.

Given that policy and what bathing assistance consists of, 40 minutes a day for bathing assistance is sufficient. To the extent Appellant also requires grooming or skin care assistance, those types of assistance are covered by other tasks and Appellant is in fact authorized for both assistance with grooming and assistance with skin care. Accordingly, the Department properly denied Appellant's request for more bathing assistance.

**Wound Care**

Appellant's representative further argues that the Department should increase Appellant's assistance with wound care. Currently, Appellant receives assistance with that task 15 minutes a day, 7 days a week (7:31 per month). (Respondent's Exhibit A, page 22; Respondent's Exhibit B, page 9).

According to Appellant's representative, wound care must be completed twice a day and that it takes at least 15 minutes per time. (Respondent's Exhibit A, page 4; Testimony of Appellant's representative).


However, it is not clear that a request for more wound care was made during the assessment and, even to the extent it was, Appellant's representative's claims are completely unsupported. Appellant bears the burden of proof with respect to the need for more wound care assistance and, given the record in this case, she has failed to meet that 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 reduced Appellant's HHS.

**IT IS THEREFORE ORDERED THAT:**

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



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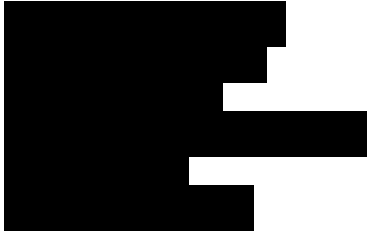
Steven J. Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

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Date Signed: 9/24/2013

Date Mailed: 9/24/2013

cc:



**\*\*\* 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.