

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P.O. Box 30763, Lansing, MI 48909  
(517) 335-2484; Fax: (517) 373-4147

**IN THE MATTER OF:**

Docket No. 2013-56622 HHS

██████████

██████████

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Appellant.

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**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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ Appellant appeared and testified. ██████████ Appellant's son/provider, appeared and testified on Appellant's behalf. ██████████ Appeals Review Manager, represented the Department of Community Health (Department). ██████████ Independent Living Specialist (ILS), appeared as a witness for the Department. ██████████ Adult Services Supervisor (ASS), also appeared as a witness for the Department.

**ISSUE**

Did the Department properly reduce Appellant's Home Help Services?

**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 an ██████-year-old Medicaid recipient who was approved for Home Help Services.
2. Appellant was living with her son/provider at all times relevant to this matter.
3. Appellant had been receiving a Home Help Services payment for assistance with bathing, grooming, dressing, transferring, housework, laundry, shopping for food/meds, and meal preparation.
4. Appellant was diagnosed with lumbar disc disease, osteoporosis, coronary artery disease (CAD), diabetes, and past cataract removal. (Department Exhibit A, p. 14)

5. On ██████████ the Adult Services Worker went to Appellant's home to reassess her eligibility for Home Help Services. ( Department Exhibit A, p. 10)
6. During the reassessment, the worker noted that: Appellant and her son/provider live together; Appellant reported no changes in her medical condition; Appellant indicated that she was able to bathe and groom herself, and she uses her cane for mobility; Appellant reported that she needs to be reminded to take her medication; and the assessment revealed that Appellant requires assistance with dressing, transferring, and her instrumental activities of daily living (IADL) that include housework, laundry, shopping for food/meds, and meal preparation. (Department Exhibit A, p. 10)
7. After the reassessment, the Adult Services Worker determined that: Appellant no longer needs assistance with bathing and grooming; and her IADLs were prorated by 2 due to the shared living arrangement with her son/provider. (Department Exhibit A, p. 10)
8. On ██████████ the Adult Services Worker sent the Appellant an Advance Negative Action Notice, informing her that her Home Help Services would be reduced to ██████████ (Exhibit 1, pp. 2, 5-8)
9. On ██████████ the Michigan Administrative Hearing System received Appellant's hearing request, protesting the reduction of her Home Help Services.

### **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 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.

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 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. [ASM 101, pages 1-2 of 4.]

Moreover, ASM 120 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

#### 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. [ASM 120, pages 2-3 of 6.]

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.

**ASM 120**  
**ADULT SERVICES COMPREHENSIVE ASSESSMENT**  
**ASB 2012-003 5-1-2012**

**Service Plan Development**

Address the following factors in the development of the service plan:

- The specific services to be provided, by whom and at what cost.
- The extent to which the client does not perform activities essential to caring for self. The intent of the home help program is to assist individuals to function as independently as possible. It is important to work with the client and the provider, if appropriate, in developing a plan to achieve this goal.
- The kinds and amounts of activities required for the client's maintenance and functioning in their living environment.
- The availability or ability of a **responsible relative** or **legal dependent** of the client to perform the tasks the client does not perform. Authorize home help **only** for those services or times which the responsible relative or legal dependent is **unavailable** or **unable** to provide; see ASM 120, Adult Services Comprehensive Assessment.
- Home help services may be approved when the client is receiving other home care services **if** the services are not duplicative (same service for the same time period); see ASM 125, Coordination With Other Services.

**ASM 130**  
**SERVICE PLAN**  
**ASB 2011-003 11-1-2011**

### **ELIGIBILITY FOR HOME HELP SERVICES**

Home help services are available if the client meets all eligibility requirements. An independent living services case may be opened to supportive services to assist the client in applying for Medicaid.

Home help services payments cannot be authorized prior to establishing Medicaid eligibility and a face-to-face assessment completed with the client. Once MA eligibility has been established, the case service methodology **must** be changed to case management.

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.

### **Medicaid/Medical Aid (MA)**

The client may be eligible for MA under one of the following:

All requirements for Medicaid have been met.  
MA deductible obligation has been met.

The client must have a scope of coverage of either:

1F or 2F.  
1D or 1K (Freedom to Work).  
1T (Healthy Kids Expansion).

Clients with a scope of coverage 20, 2C or 2B are **not** eligible for Medicaid until they have met their MA deductible obligation.

### **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.

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.

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.

*ASM 105*  
**ELIGIBILITY CRITERIA**  
*ASB 2011-003 11-1-2011*

The worker who completed the ██████████ assessment testified credibly that Appellant informed her that she was able to bathe and groom herself without assistance; and she uses her cane for mobility. According to the Adult Services Worker, Appellant also reported that she needs to be reminded to take her medication; she requires assistance with dressing-fastening and unfastening her undergarments; and Appellant needs assistance with transferring-a boost to stand from sitting. (Department Exhibit A, p. 10). The worker testified that since Appellant reported that she was able to bathe and groom herself, those activities were ranked at a level one (1), which means the person is independent in the ability to perform the activity.

Appellant requested a hearing, protesting the reduction of her Home Help Services. Appellant's Home Help Services payment was reduced because it was determined that she is currently independent in her ability to bathe and groom; and the worker prorated the IADLs by 2 since Appellant has been living with her son/provider at all times relevant to this matter. Appellant and her son claim that Appellant still needs assistance with bathing and grooming as well as other activities. However, Appellant failed to rebut the worker's credible testimony that she told the worker she was able to do these activities herself. With respect to the IADLs of laundry, meal preparation, housework, and shopping, the Department properly prorated the payment for these services by one half (1/2). The Department can authorize Home Help Services **only** for the benefit of the customer, **not** for others in the home. If others are living in the home, the Department must prorate the IADLs by ½ or more if appropriate. There is no evidence to establish that Appellant had any special needs that required a deviation from the Department policy as it pertains to determining the home help services payment amount in a shared living arrangement.

As stated in the aforementioned policy, the goal of the home help services program is to assist individuals to function as independently as possible in their home. Additionally, the Home Help Services policy states clearly that the Adult Services Worker is responsible for determining the necessity and level of need for Home Help Services. Although the client's physician must certify that the client's need for services is related to an existing medical condition, the physician does not prescribe or authorize personal care services. In this case, Appellant failed to provide the necessary evidence to refute the Department's Home Help Services eligibility determination. Accordingly, the reduction of Appellant's Home Help Services must be upheld.

