

**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:

Docket No. 2013-56745 HHS

██████████

██████████

██████████

Appellant.

_____ /

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. ██████████ appeared and testified on Appellant's behalf. ██████████ ██████████ Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Supervisor, appeared as a witness for the Department.

ISSUE

Did the Department properly determine Appellant's Home Help Services eligibility effective ██████████

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 female who requested Home Help Services.
2. Appellant has been living with her spouse at all times relevant to this matter.
3. On ██████████, the Department received Appellant's Medical Needs Form, indicating that she needs assistance with several personal care activities, and she is unable to work. (Department Exhibit A, p. 13)

4. Appellant was no longer receiving active Medicaid coverage effective [REDACTED]
5. The Department received a Medical Needs Form, signed by a medical doctor on [REDACTED] indicating that Appellant's spouse does not need any assistance with his personal care activities. (Department Exhibit A, p. 12)
6. On [REDACTED], the Adult Services Worker sent the Appellant an Adequate Negative Action Notice, informing her that her Home Help Services was denied because Appellant "did not have Medicaid." (Department Exhibit A, pp. 2, 6-8)
7. Appellant did not receive an Adequate Negative Action Notice, explaining why she was not eligible for Home Help Services for the period of [REDACTED] through [REDACTED]
8. On [REDACTED], the Michigan Administrative Hearing System received Appellant's hearing request, protesting the denial of her Home Help Services request.

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 Adult Services Worker Supervisor testified credibly that Appellant had a Medicaid deductible and was no longer eligible for Medicaid effective ██████████. However, Appellant testified that she was eligible for Medicaid coverage in ██████████ and the Department worker did not dispute Appellant's testimony. A Medical Needs form was received by the Department and signed by Appellant's medical doctor on ██████████ certifying that Appellant needs assistance with personal care activities or HHS. Additionally, a Medical Needs form was submitted on behalf of Appellant's spouse, which reveals that the spouse does not need any assistance with any of the personal care activities. The Department was required to make an eligibility determination effective the date Appellant's doctor certified Appellant's need for HHS on the Medical Needs form and provide Appellant with proper adequate notice of the HHS eligibility determination. When the Administrative Law Judge asked why Appellant was not eligible for HHS effective ██████████ the Adult Services Supervisor could not provide a clear explanation or establish that: the Department properly determined that a responsible relative was not only able, but available to assist Appellant with her HHS during the month of ██████████ and adequate notice of the ineligibility for HHS effective ██████████ was provided to Appellant.

[REDACTED]
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Decision and Order

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined Appellant's Home Help Services eligibility effective [REDACTED]

IT IS THEREFORE ORDERED that:

The Department must initiate a redetermination of Appellant's Home Help Services eligibility effective [REDACTED] in accordance with the applicable law and policy.

/s/
Marya Nelson-Davis
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

MAND/db

cc: [REDACTED]

***** NOTICE *****

The State Office of Administrative Hearings and Rules 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 State Office of Administrative Hearings and Rules 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.