

**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. 2013-57809 HHS

██████████

██████████

██████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ), pursuant to M.C.L. § 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant's son ██████████ appeared and testified on the Appellant's behalf. Appellant was allowed to appear by phone and also testified on her own behalf. ██████████ Appeals Review Officer (ARO), represented the Department of Community Health. ██████████ Adult Services Worker (ASW), ██████████ County Department of Human Services-██████████ (DHS), appeared as a witness for the Department. ██████████ Adult Services Supervisor was present but did not testify.

ISSUE

Did the Department properly reassess 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.
2. Appellant has been diagnosed with degenerative joint disease especially in her knees, diabetes, asthma, hypothyroidism, hypertension, and she has a colostomy bag. (Exhibit A, p. 12).
3. On ██████████, as part of the reassessment process, ASW Sims conducted a home visit. (Exhibit A, p. 14 and testimony).
4. Based on her reassessment and information provided by Appellant during the home visit, the ASW determined that the Appellant continued to qualify

██████████
Docket No. 2013-57809 HHS
Hearing Decision & Order

for HHS assistance with her personal care needs and chore services. However, the ASW determined that Appellant's son ██████████ was now living in the home and according to policy with a shared household payment for chore services had to be prorated. (Exhibit A, p. 10 and testimony).

5. Based on her comprehensive reassessment ASW ██████████ authorized a total of ██████ hours and ██████ minutes of HHS per month for assistance with the needed tasks, with a total monthly care cost of ██████████. The total amount of time for bathing was increased and changed from ██████ minutes ██████ days per week to ██████ minutes per day ██████ days per week; grooming was eliminated; the total time for dressing was increased from ██████ minutes ██████ days per week to ██████ minutes ██████ days per week; toileting was reduced to ██████ minute per day ██████ days per week; the total time for transferring was decreased from ██████ minutes ██████ days per week to ██████ minutes per day ██████ days per week; the total time for mobility was increased from ██████ minutes per day ██████ days a week to ██████ minutes per day ██████ days per week; and, the total time for housework, laundry, shopping and meal preparation were all prorated and decreased and set at half of the maximum allowed per month due to the policy requiring a proration of IADLs for a shared household. (Exhibit A, pp. 15-16 and testimony).
6. On ██████████ the Department sent Appellant an Advance Negative Action Notice stating that the new total monthly care cost would be ██████████, because her son was now living with her and since this is considered a shared household certain payments had to be prorated per policy. (Exhibit A, pp. 6-9).
7. On ██████████ MAHS received Appellant's Request for Hearing, indicating the Appellant's son had moved out and there was no need to reduce the HHS benefits. (Exhibit A, p. 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 agencies.

Docket No. 2013-57809 HHS
Hearing Decision & Order

Adult Services Manual 120 (5-1-12) (hereinafter "ASM 120") addresses the maximum number of hours and the proration of Instrumental Activities of Daily Living (IADLs) services:

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. [ASM 120, page 4 of 5, emphasis added].

MCL 28.291a provides in part:

(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11. [MCL 291a(c)].

MCL 28.292 provides in part:

(1) The official state personal identification card shall contain the following:

██████████
Docket No. 2013-57809 HHS
Hearing Decision & Order

(a) An identification number permanently assigned to the person.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card. [MCL 28.292].

On ██████████, ASW ██████ went to the Appellant's home for a face-to-face meeting to do a redetermination of the Appellant's eligibility for the HHS program. Appellant advised the ASW that one of her adult sons was now living with her. The ASW stated that as a result of her reassessment some of the Appellant's ADLs were adjusted based on the information provided during the face-to-face meeting. The total amount of time for bathing was increased and changed from █████ minutes █████ days per week to █████ minutes per day █████ days per week; grooming was eliminated; the total time for dressing was increased from █████ minutes █████ days per week to █████ minutes █████ days per week; toileting was reduced to █████ minute per day █████ days per week; the total time for transferring was decreased from █████ minutes █████ days per week to █████ minutes per day █████ days per week; and, the total time for mobility was increased from █████ minutes per day █████ days a week to █████ minutes per day █████ days per week.

The ASW further stated the total time authorized for housework, laundry, shopping and meal preparation were all prorated and decreased and set at half of the maximum allowed per month due to the policy requiring a proration of IADLs for a shared household. In her request for a hearing, and again during the hearing no issues were raised concerning the changes in the amount of time authorized for Appellant's ADLs, only as to the question raised relating to the proration of the time authorized for the IADLs due to the shared household.

The preponderance of the reliable evidence in this case establishes that the information obtained by the ASW when she conducted her last face-to-face meeting with the Appellant in her home on ██████████ shows the Appellant had a shared living arrangement with her son. The Appellant admitted at the time of the home visit that her son ██████ was living with her, but she added he drinks, can't hear or see well, and was unable to assist with her care. The ASW noted ██████ was present in the home when she arrived for the home visit, and he was in the kitchen doing dishes. During the hearing, the ASW testified she had received a change of address for the Appellant's son ██████ on his official state personal identification card completed by the Secretary of State on ██████████, and further that the ID card showed the son's previous "residence address" was listed as the Appellant's address.

The portions of the statutes quoted above require the address listed on an official state personal identification card to be "the place that is the settled home or domicile at which

Docket No. 2013-57809 HHS
Hearing Decision & Order

a person legally resides". Furthermore, MCL 28.293 makes it a crime to give false information when applying for a state personal identification card. Accordingly, it is proper to rely on the information contained on the son's state personal identification card to determine where he was legally residing, that is, at the Appellant's address prior to the change of address effective [REDACTED]

The preponderance of the reliable evidence shows the ASW properly reassessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the reassessment on [REDACTED], and up until the date of the hearing, showed the Appellant's son was in a shared living arrangement with the Appellant based upon the Appellant's own words at the time of the reassessment, and based on the fact that her son's legal residence listed on his official ID card was the same as that of the Appellant. Given this shared living arrangement, the Department was bound to follow the mandated policy and prorate the HHS time and payment for the IADLs noted, by at least [REDACTED]. The Department further established that according to the change of address submitted at the time of the hearing, another reassessment can be done to reconsider their authorization of HHS for the Appellant.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that, based on the available information, the Department properly reassessed Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

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

William D Bond

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

Docket No. 2013-57809 HHS
Hearing Decision & Order

***** 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.