

**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. 2013-58223 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.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker (ASW) appeared as a witness 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 neuromuscular disease, weakness, deep vein thrombosis, hypertension, and dysuria. (Exhibit A, p 9; Testimony)
2. On ██████████, the Department's ASW went to Appellant's home to conduct a reassessment. (Exhibit A, pp 16-18; Testimony)
3. Appellant's adult daughter lives in the home with Appellant. The ASW explained to Appellant during the reassessment that she would need to prorate Appellant's HHS hours for her Instrumental Activities of Daily Living (IADL's) because another able adult was living in the home. (Exhibit A, p 16; Testimony)
4. The ASW also informed Appellant that her HHS for transferring and mobility would be reduced in frequency to once per week because Appellant only leaves her bed approximately once per week. (Exhibit A, p 17; Testimony)

5. Following the annual reassessment, Appellant's HHS was reduced from 60 hours and 7 minutes ([REDACTED]) per month to 48 hours and 34 minutes ([REDACTED]) per month. (Exhibit A, pp 19-20; Testimony)
6. On [REDACTED], the Department sent Appellant an Advance Negative Action Notice informing her of the reduction in her HHS. (Exhibit A, pp 11-15; Testimony)
7. Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (Exhibit 1)

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 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.

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.

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.

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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.

Emphasis added

*Adult Services Manual (ASM) 120, 5-1-2012,
Pages 1-5 of 5*

The ASW testified that on ██████████, she went to Appellant's home to conduct a reassessment. The ASW indicated that because Appellant's adult daughter lives in the home with Appellant, she explained to Appellant that she would need to prorate Appellant's HHS hours for her Instrumental Activities of Daily Living (IADL's) because another able adult was living in the home. The ASW also testified that she informed Appellant that her HHS for transferring and mobility would be reduced in frequency to once per week because Appellant only leaves her bed approximately once per week. The ASW indicated that following the annual reassessment, Appellant's HHS was reduced from 60 hours and 7 minutes (██████████) per month to 48 hours and 34 minutes (██████████) per month and that on ██████████, she sent Appellant an Advance Negative Action Notice informing her of the reduction in her HHS. The ASW also indicated that Appellant has been contacted by the local Area Agency on Aging (AAA) because Appellant has come off their waiting list for the MI Choice Waiver Program and is now eligible for assessment. The ASW indicated that Appellant will need to prove to AAA that she has requested additional hours through HHS, and been denied, before the assessment can take place.

Appellant testified that she needs her HHS hours reinstated because with the reduced hours her aide does not have enough time to care for her. Appellant explained that she is bedridden and uses a bedpan. Appellant indicated that she has good days and bad days, but that at the present time she cannot get into her wheelchair. Appellant testified that her aide could put her into the wheelchair, but that there is no one available to help her back to bed via use of a Hoyer lift after the aide leaves. Appellant testified that because of her vascular condition, her doctor wants her out of the bed at least once per day. Appellant indicated that while it is true that her daughter lives with her, she and her daughter do not get along and her daughter does not help her at all. Appellant also indicated that she needs more hours because she needs an aide to accompany her to

doctor's appointments. Appellant explained that the doctors want her to have someone in the examination room to help her dress and undress. Appellant testified that Medicaid does pay for transportation to and from appointments, but that the drivers are not allowed to assist her when she is in the examination room. Appellant agreed that she will be assessed for the MI Choice Waiver Program once this appeal is exhausted.

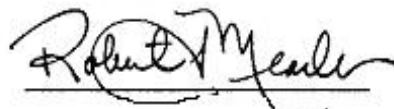
Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence, that the reduction in HHS was inappropriate. The ASW reviewed Appellant's ADL's and IADL's with her and based her rankings on what was told to her during the assessment. The ASW also properly prorated Appellant's IADL's per policy because there is another able bodied adult living in the home. The Department's ASW properly calculated Appellant's HHS based on policy and the information provided by Appellant at the reassessment.

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 reduced Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



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

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cc:



Date Signed: 9/13/2013

Date Mailed: 9/13/2013

***** 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 March 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.