

**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. 2013-58224 HHS

██████████

██████████

██████████

Appellant.

\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 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 mother /POA ██████████ appeared and testified on the Appellant's behalf. Appellant also appeared but did not testify. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Supervisor from the ██████████ County DHS ██████████ District Office, appeared as a witness for the Department.

**ISSUE**

Did the Department properly terminate 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 mild mental retardation. (Exhibit A, p. 16).
3. On ██████████, the ASW attempted a home visit with the Appellant to conduct a face-to-face assessment to determine Appellant's continued eligibility for HHS. The ASW was unable to complete the home visit because the Appellant was at work. The Department then sent Appellant an Advance Negative Action Notice informing him that his HHS would be terminated effective ██████████, because he did not make himself available for a home visit to complete the redetermination. (Exhibit A, pp. 9-11, 18 and testimony).
4. On ██████████ Appellant's mother/POA sent a letter to the ASW indicating she had sent in a Request for Hearing, and she closed the letter by stating the Appellant needs assistance with Meal Preparation, Shopping, Laundry, and Housework. A similar letter was sent with the

**Docket No. 2013-58224 HHS**  
**Decision and Order**

Appellant's request for hearing to MAHS, which also closed with the statement, the Appellant needs assistance with Meal Preparation, Shopping, Laundry, and Housework. (Exhibit A, pp. 6-7).

5. On [REDACTED], the Department sent Appellant another Advance Negative Action Notice informing him that his HHS would be terminated effective [REDACTED], because he only needs assistance with meal preparation, shopping, laundry, and housework, therefore, he is not eligible for HHS. (Exhibit A, pp. 12-14 and testimony).
6. The policy in the Adult Services Manual (ASM), effective [REDACTED] states that a person who does not require the need for hands on assistance with at least one activity of daily living is not eligible for HHS. Meal Preparation, Shopping, Laundry, and Housework are Instrumental Activities of Daily Living (IADLS) and not Activities of Daily Living (ADLs). (Exhibit A, pp. 22-43).
7. On [REDACTED], MAHS received Appellant's Request for Hearing. (Exhibit A, p. 5).

**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 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:

**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

**Docket No. 2013-58224 HHS**  
**Decision and Order**

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.

**Docket No. 2013-58224 HHS  
Decision and Order**

**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].

**Services not Covered by Home Help Services**

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding of encouraging (functional assessment rank 2). [ASM 101, page 3 of 4].

ASM 120, Adult Services Comprehensive Assessment, indicates the primary tool for determining need for services is the comprehensive assessment. ASM 120 states in part:

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

\* \* \*

- The assessment must be updated as often as necessary, but minimally at the six months review and annual redetermination.

\* \* \*

**Functional Assessment**

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the HHS 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

**Docket No. 2013-58224 HHS**  
**Decision and Order**

- Dressing
- Transferring
- Mobility

Instrumental Activities of Daily Living (IADL)

- Taking Medication
- Meal Preparation and Cleanup
- Shopping
- Laundry
- Light Housework

Functional Scale

ADL's and IADL's 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.

██████████  
**Docket No. 2013-58224 HHS**  
**Decision and Order**

**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 1-3 of 6].

Here, the Adult Services Supervisor stated on ██████████ the ASW attempted a home visit with the Appellant to conduct a face-to-face assessment to determine Appellant's continued eligibility for HHS. The ASW was unable to complete the home visit because the Appellant was at work. The Department then sent Appellant an Advance Negative Action Notice informing him that HHS would be terminated effective ██████████, because he did not make himself available for a home visit to complete the redetermination. (Exhibit A, pp. 9-11, 18 and testimony).

On ██████████, Appellant's mother/POA sent a letter to the ASW indicating she had sent in a request for hearing, and she closed the letter by stating the Appellant needs assistance with Meal Preparation, Shopping, Laundry, and Housework. A similar letter was sent with the Appellant's request for hearing to MAHS, which also closed with the statement, the Appellant needs assistance with Meal Preparation, Shopping, Laundry, and Housework. (Exhibit A, pp. 6-7).

On ██████████, the Department sent Appellant another Advance Negative Action Notice informing him that HHS would be terminated effective ██████████ because he only needs assistance with meal preparation, shopping, laundry, and housework, therefore, he is not eligible for HHS. (Exhibit A, pp. 12-14 and testimony).

During the hearing, Appellant's mother/POA testified when she wrote the letter to DHS and MAHS she did not say that the Appellant needed assistance with his medications and also needs to get a ride to and from work. Appellant's mother stated Appellant takes over the counter medications for his allergies, and needs help with taking the medications. She further stated the Appellant has to get a ride to work and gets picked up from work. The Appellant's mother stated she learned of the home visit the day before it was scheduled and did not know the Appellant had to be there. She stated Appellant needs these services to live independently; otherwise he might have to go into a group home.

In rebuttal, the Adult Services Supervisor stated that assistance with medications is also considered an Instrumental Activity of Daily Living (IADL). The Adult Services Supervisor testified that transportation is not a service covered by HHS.

The preponderance of the reliable evidence presented in this case demonstrates that the ASW was unable to complete the required comprehensive assessment at the time

**Docket No. 2013-58224 HHS  
Decision and Order**

of the annual redetermination. In addition, the evidence shows the Appellant does not need assistance with any of his ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if he has a need for assistance with an ADL at a level 3 or greater. See ASM 101, page 2 of 4; ASM 120, page 3 of 6. Appellant's mother/POA clearly indicated in her letters to the ASW and MAHS that the Appellant has no such need for assistance with his ADLs only his IADLs, i.e., meal preparation, shopping, laundry, and housework. Furthermore, her testimony added only the need for assistance with medication which is an IADL, and transportation to and from work which is not a service covered by HHS. Accordingly, the Appellant was properly found to be ineligible to receive any type of HHS. The Department's decision must be sustained.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's request for 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]

**\*\*\* 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.