

**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. 2013-59618 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 ██████████ 013. Appellant appeared and testified on his own behalf. ██████████, Appellant's wife, was also present as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from ██████████ County DHS appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's request for 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 coronary artery disease, Type II diabetes, depression, and anxiety. (Respondent's Exhibit A, page 4a).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 4).
3. As part of his application, Appellant submitted a medical needs form signed by his doctor on ██████████ (Respondent's Exhibit A, page 4a).
4. That form indicated that Appellant has a medical need for assistance with the tasks of bathing, laundry, housework, shopping, and meal preparation. (Respondent's Exhibit A, page 4a).

5. The tasks of laundry, housework, shopping, and meal preparation are all identified as Instrumental Activities of Daily Living (IADLs) by the Department. (Adult Services Manual 101 (11-1-2011) (hereinafter “ASM 101”), page 1 of 4).
6. The task of bathing is identified as an Activity of Daily Living (ADL) by the Department. (ASM 101, page 1 of 4).
7. On ██████████, ASW O’Dowd conducted a visit and assessment in Appellant’s home. Appellant, his wife, and his daughter/care provider were all present for that visit. (Respondent’s Exhibit A, page 8).
8. During that assessment, Appellant only requested assistance with laundry, housework, shopping, and meal preparation. (Respondent’s Exhibit A, page 8; Testimony of ASW ██████████).
9. Appellant and his daughter also reported that Appellant was independent in all his ADLs, including bathing and dressing. (Respondent’s Exhibit A, page 8; Testimony of ASW ██████████).
10. Based on the reports made during the assessment, ASW ██████████ determined that Appellant did not meet the criteria for HHS as he did not require physical assistance with any ADL. (Respondent’s Exhibit A, page 4; Testimony of ASW O’Dowd).
11. On ██████████, the Department sent written notice to Appellant indicating that his application for HHS was being denied as he did not meet the criteria for the program. (Respondent’s Exhibit A, page 3).
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a complete and signed Request for Hearing in this matter. (Respondent’s Exhibit B, page 2).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.

¹ Appellant testified during the hearing that he also filed the request for hearing on behalf of his wife, who was also denied HHS around the same time. However, only his name is given on the request and the request only states that “I was denied for the home care services”. (Respondent’s Exhibit B, page 2). Given the subject of request, this matter was properly docketed solely as an appeal for Appellant. Appellant’s wife must file her own request for hearing if she wants to appeal any negative action taken by the Department.

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.

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. For example, ASM 101 provides:

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.

* * *

Services not Covered by Home Help

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2) . . .

ASM 101, pages 1-3 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 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
- 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 2-4 of 5

As described in the above policy, an individual is only eligible to receive HHS if he or she has a need for assistance with at least one ADL at a level 3 or greater.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive HHS as he requested. That decision was based on the information obtained directly from Appellant and his daughter/care provider. They only requested assistance with IADLs during the home visit and they specifically reported that Appellant is independent in all ADLs.

In response, Appellant testified that, in addition to the assistance he requires with IADLs, he also needs assistance with the ADL of dressing due to his inability to bend. However, he acknowledged that he may have misspoken during the assessment and told ASW ██████████ that he could dress himself.

Appellant further testified that he needs assistance with the ADL of bathing and the medical needs form submitted by his doctor also indicates a need for assistance with bathing. However, Appellant testified that he only needs such assistance now, due to a

recent fall while showering, and that he did not need assistance at the time of the Department's decision.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying his application. Moreover, in reviewing that decision, this Administrative Law Judge is limited to reviewing the Department's decision based on the information available at the time.

Here, given the above testimony and evidence regarding Appellant's request for services and need for assistance, Appellant has failed to meet that burden. ASW [REDACTED] credibly testified that Appellant and his daughter/care provider only requested assistance with IADLs and that they specifically reported that Appellant is independent in all ADLs. Appellant does not dispute those reports. Appellant does claim that he has new information to provide and that his circumstances have changed since the denial, but that new information would have to be the subject of a new request for HHS through the Department. Appellant is free to submit a new application at any time.

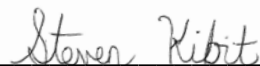
Accordingly, with respect to the denial at issue in this case, the Department properly found that Appellant has no need for physical assistance with any ADLs and its decision to deny services on that basis must be affirmed.

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**.



Steven Kibit

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [REDACTED]

Docket No. 2013-59618 HHS
Decision and 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.