

**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. 2013-60516 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 appeared and testified on his own behalf. ██████████ appeared in place of the Appellant's authorized representative. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Worker (ASW) from the ██████████ County DHS ██████████ District Office, appeared as a witness for the Department. ██████████ Adult Services Supervisor was also present but did not testify.

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 by a physician with depression, hearing loss in the right ear, vertigo, asthma, and high cholesterol. (Exhibit A, pp. 5, 9 and Exhibit B).
3. On ██████████, the ASW ██████████ did a home visit with the Appellant and completed face-to-face assessment to determine Appellant's continued eligibility for HHS. The ASW determined that Appellant did not meet the criteria for HHS as he did not need assistance with any of his ADLs. During the home visit, Appellant provided a DHS-54A Medical Needs form from his physician ██████████ ██████████, completed on ██████████ certifying he had a medical

**Docket No. 2013-60516 HHS
Decision and Order**

need for assistance with the following personal care activities: meal preparation, shopping laundry and housework. [REDACTED] also marked on the medical needs form that the Appellant could work with limitations. (Exhibit A, pp. 8, 15-16, Exhibit B and testimony).

4. On [REDACTED], the Department issued an Advance Negative Action Notice to Appellant informing him that his HHS would be terminated effective [REDACTED], because his recent assessment did not identify that he had a need for assistance with ADLs only IADLs, and according to policy in order to be eligible for HHS the person must be assessed with the need for hands on assistance with at least one activity of daily living. (Exhibit A, pp. 10-14 and testimony).
5. On [REDACTED], DHS received another DHS-54A from [REDACTED] completed on [REDACTED] certifying that the Appellant had a medical need for assistance with the following personal care activities: meal preparation, shopping laundry and housework. This time the doctor marked that the Appellant could not work. (Exhibit A, p. 5 and testimony).
6. On [REDACTED], MAHS received Appellant's Request for Hearing. (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 private or public agencies.

Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101") and Adult Services Manual 120 (11-1-2011) (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.

Docket No. 2013-60516 HHS
Decision and Order

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.

**Docket No. 2013-60516 HHS
Decision and Order**

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].

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].

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

**Docket No. 2013-60516 HHS
Decision and Order**

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.

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].

**Docket No. 2013-60516 HHS
Decision and Order**

Here, the ASW [REDACTED] established that on [REDACTED] she sent out an Advance Negative Action Notice to the Appellant stating his HHS would be terminated. The termination was based on the Appellant's redetermination on [REDACTED] because he did not identify the need for assistance with any ADLs only the need for assistance IADLs. (See Exhibit A, pp. 10-14 and testimony).

The ASW stated she went through the assessment with the Appellant and he did not identify the need for ADLs only IADLs. She further stated the Appellant was primarily upset with the previous ASW, because he did not think the ASW had authorized enough time for the tasks of housework, laundry, and meal preparation. The ASW then determined Appellant was not eligible to continue receiving HHS, since he did not identify a need for hands on assistance with any of his activities of daily living. (Testimony). The ASW acknowledged that she received a medical needs form from the Appellant at the home visit that certified Appellant had a medical need for assistance with the following personal care activities: meal preparation, shopping laundry and housework. The medical needs form also indicated the Appellant could work with limitations. (Exhibit B and testimony). The ASW stated a second medical needs form was received by DHS on July 30, 2013 the date they received the Appellant's request for a hearing. (Exhibit A, pp. 4, 5).

During his testimony, the Appellant claimed his doctor never said that he could work when she filled out the first medical needs form. He indicated he is not able to work. Appellant testified the ASW never asked him anything about his medical needs; she just looked at his appearance and made her own decision. He said he has depression, a short attention span, a hearing loss, trouble standing for a long time, and was diagnosed with hepatitis. Appellant said he believes the ASW's judgment was wrong as she did not ask him about his disability or his medical needs. When questioned on cross examination, the Appellant stated he needs help with meal preparation, shopping, laundry and housework.

The preponderance of the reliable evidence presented in this case demonstrates that at the time of the ASW's redetermination the Appellant did 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 had demonstrated no such need at the time of his redetermination and was properly found to be ineligible for continued HHS. Accordingly, the Department's decision must be sustained.

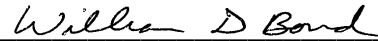
DECISION AND ORDER

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


Docket No. 2013-60516 HHS
Decision and Order

IT IS THEREFORE ORDERED THAT:

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



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

Date Signed: 

Date Mailed: 

WDB/db

cc:



***** 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.