

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████

Appellant

Docket No. 2013-61480 HHS

██████████

██████████

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 ██████████ provider, represented the Appellant. ██████████, the Appellant, appeared and testified. ██████████, Appeals Review Officer, represented the Department. ██████████ Adult Services Worker ("ASW"), and ██████████, Adult Services Supervisor, appeared as witnesses for the Department.

ISSUE

Did the Department properly reduce the Appellant's Home Help Services ("HHS") case?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a Medicaid beneficiary who has been authorized for HHS since ██████████. (Exhibit 1, page 7)
2. The Department has received medical verification that the Appellant has been diagnosed with insulin dependent diabetes mellitus with neuropathy, cancer of breast, hypertension, coronary artery disease, hypothyroidism, moderate osteoarthritis, anemia, and peripheral arterial disease. The Appellant has also reported glaucoma, arrhythmia, bad gall bladder and acid reflux. (Exhibit 1, page 8; Exhibit 2)
3. The Appellant had been authorized for ████████ hours and ████████ minutes of HHS with a total monthly care cost of ████████ for assistance with bathing, grooming, medication, housework, laundry, shopping, and meal preparation. (Exhibit 3)

4. On ██████████ the ASW went to the Appellant's home and completed an in-home assessment for the annual redetermination of the Appellant's HHS case. In part, the Appellant reported: she could complete most Activities of Daily Living ("ADLs") on her own, but needed assistance getting in and out of the shower, her doctor switched her insulin to a kwikpen that she can give to herself independently; she requires some assistance with the Instrumental Activities of Daily Living ("IADLs") of housework, laundry and meal preparation; she receives ██████ meal daily through meals on wheels; and her provider comes to the home ██████ days per week. (Exhibit 1, pages 11 and 13; ASW Testimony)
5. Based on the available information, the ASW concluded that the Appellant's HHS hours for grooming and medication should be eliminated and that the HHS hours for bathing, housework, laundry, shopping and meal preparations should be adjusted. This reduced the Appellant's HHS authorization to ██████ hours and ██████ minutes with a total monthly care cost of ██████████. (Exhibit 1, pages 12; ASW Testimony)
6. On ██████████, the Department sent the Appellant an Advance Action Notice, which informed her that effective ██████████ the HHS case, would be reduced to ██████████ (Exhibit 1, pages 5-6 and 9-10)
7. On ██████████, the Appellant's doctor completed a DHS-54A Medical Needs form indicating the Appellant had a medical need for assistance with meal preparation, shopping, housework, and laundry. (Exhibit 3)
8. On ██████████, the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, page 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 (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Necessity For Service

The adult services specialist is responsible for determining the necessity and level of need for home help services based on:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. 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.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

Adult Services Manual (ASM) 105,
11-1-2011, Pages 1-3 of 3

Adult Services Manual (ASM) 115, 11-1-11, addresses the DHS-54A Medical Needs form:

MEDICAL NEEDS FORM (DHS-54A)

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.
- Occupational therapist.
- Physical therapist.

Note: A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the medical professional and not the client must complete the form. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. **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.

*Adult Services Manual (ASM) 115,
11-1-2011, Pages 1-2 of 3*

Adult Services Manual (ASM) 120, 5-1-12, addresses the 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 must 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 IADL's 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.

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.

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

Adult Services Manual (ASM) 101, 11-1-11, addresses services not covered by HHS:

Services not Covered by Home Help

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

██████████
Docket No. 2013-61480 HHS
Decision and Order

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive.

*Adult Services Manual (ASM) 101, 11-1-2011,
Pages 3-4 of 4.*

The Appellant had been authorized for █████ hours and █████ minutes of HHS with a total monthly care cost of █████ for assistance with bathing, grooming, medication, housework, laundry, shopping, and meal preparation. (Exhibit 3)

On █████, the ASW went to the Appellant's home and completed an in-home assessment for the annual redetermination of the Appellant's HHS case. The ASW noted the Appellant's recent move. At that time, the Appellant was living in an apartment with her █████-year-old grandson. In part, the Appellant reported she could complete most ADLs on her own, but needed assistance getting in and out of the shower. Additionally, the Appellant stated the doctor switched her insulin to a kwikpen that she can give to herself independently. The ASW understood that the Appellant requires some assistance with the IADLs of housework, laundry and meal preparation. Regarding meal preparation, the ASW noted that the Appellant can make small meals, coffee, reheat meals, and receives █████ meal daily through meals on wheels. The ASW also understood that the Appellant's provider came to the home █████ days per week. (Exhibit 1, pages 11 and 13; ASW Testimony)

The functional ranking justification notes from a prior assessment show that the Appellant previously had greater needs for assistance with ADLs and IADLs. Examples include the Appellant previously needing assistance washing her back as well as getting in/out of the tub and not being able to inject insulin on her own. (Exhibit 1, page 14)

██████████
Docket No. 2013-61480 HHS
Decision and Order

Based on the available information, the ASW concluded that the Appellant's HHS hours for grooming and medication should be eliminated and that the HHS hours for bathing, housework, laundry, shopping and meal preparations should be adjusted. This reduced the Appellant's HHS authorization to █████ hours and █████ minutes with a total monthly care cost of █████. (Exhibit 1, pages 12; ASW Testimony)

The Appellant and her provider disagree with the reduction to the Appellant's HHS case. The Appellant testified that she had only had the insulin pen for █████ days at the time of the ASW's home visit. The Appellant has carpal tunnel and arthritis in both hands. Some days she cannot open her hand. The provider continues to assist her with administering her insulin shots. The Appellant also stated she receives one frozen meal from meals on wheels █████ days per week. The Appellant is a diabetic so she still needs █████ additional meals and snacks. The Appellant stated she can wash a cup, but the days her provider comes there is still a sink full of dishes for him to do. The Appellant's legs cramp and she cannot get around well. It was easier when the Appellant was in the apartment, but she has since moved to a house. The Appellant also stated her provider assists with picking up her prescriptions and transporting her to the doctor. (Appellant Testimony)

The Appellant's provider testified he is still doing the same work for the Appellant as before the reduction. The provider's testimony indicated there have been a lot of changes since the ASW's home visit. (Provider Testimony)

The Department provided sufficient evidence to support the reduction to the Appellant's HHS authorization. The ASW based the reductions on the information gathered during the home visit, including that the Appellant reported: only needing assistance getting in/out of the tub and being able to complete other ADLs on her own; being able to take her insulin independently now that she had the insulin pen; able to complete some portions of housework, laundry, and meal preparation; and receiving one meal daily through meals on wheels. (Exhibit 1, pages 11 and 13-14; ASW Testimony) The ASW's determinations to reduce the Appellant's HHS authorization are also consistent with the medical verification from the Appellant's doctor indicating the only needs for assistance were with meal preparation, shopping, housework, and laundry. (Exhibit 3) Accordingly, the Department's determination to reduce the Appellant's HHS authorization is upheld based on the information available at the time of the assessment.

The testimony of the Appellant and her provider indicate there have been several changes since the ASW's home visit. Changes in living situation, diagnoses, functional abilities, and needs for assistance should be reported to the Department as they occur so that the ongoing HHS authorization can be adjusted if appropriate. The Department should consider any new information reported during the hearing proceedings. However, under the above cited policy some of the assistance from the provider would not be covered under the HSH program, such as transporting to doctor appointments.

