

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

Docket No. 2013-62126 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. ██████████, Manager of the Appeals Section, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from the ██████████ County DHS Office, appeared as a witness for the Department. ██████████ Adult Services Supervisor was also present but did not testify.

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. (Testimony).
2. Appellant has been diagnosed by a physician with chronic back pain, hypertension, GER, history of esophageal stricture, on-going tobacco abuse, history of multiple substance abuse, and, Hepatitis C. (Exhibit A, p. 7).
3. On ██████████, Appellant's physician completed a DHS-54A indicating that Appellant did not have a medical need for assistance with any of his personal care activities. (Exhibit A, p. 7 and testimony).

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4. On [REDACTED], the Department issued an Adequate Action Notice to Appellant informing him that HHS would be denied because his medical needs form indicated there were no medical needs requiring assistance with any of his personal care activities. (Exhibit A, pp. 5-6, 8-11 and testimony).
5. 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.

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.

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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. [ASM 101, pages 1-2 of 4].

Services not Covered by Home Help Services

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

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- 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

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.

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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 5].

Here, the ASW testified that he sent out an Adequate Negative Action Notice to the Appellant indicating that his request for HHS would be denied as his [REDACTED] medical needs form indicated there were no medical needs requiring assistance with any of his personal care activities. (See Exhibit A, pp. 5-6, 8-11 and testimony). The ASW acknowledged the Medical Needs form, the DHS-54A submitted from the Appellant's doctor's office, which was completed by [REDACTED] a physician's assistant in the office and that was cosigned by [REDACTED] was marked "No" indicating the Appellant had no medical needs for assistance with any of his person care activities. (See Exhibit A, p. 7). The ASW stated the physician's assistant is very familiar with DHS procedures, and was certain that when he marked no, that he meant the Appellant did not need assistance with any of his personal care activities.

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The ASW referenced the policy on HHS, (ASM 101, page 1-2 of 4), and stated HHS may only be authorized if the activities are certified by a Medicaid enrolled medical professional. The ASW concluded that this policy supported the negative action he took in this case.

During the hearing, Appellant indicated he was in chronic pain before he went to the doctor's office. He indicated he has chronic arthritis, low back pain, hip problems that might require a hip replacement, a bum shoulder, hypertension, has been prescribed ████ inhalers and has trouble breathing due to emphysema, and has migraines. Appellant stated that he really needs help with chores around his house. Appellant indicated he uses a cane, can only walk about a half of a block, and can't lift more than ████ to ████ pounds. Appellant indicated his pain never goes below a nine, but his doctor won't give him any medications. In closing Appellant said he is going to be ████ years old and needs help around his house.

The preponderance of reliable evidence in this case demonstrates that 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 the activities are certified by a Medicaid enrolled medical professional, i.e., the Appellant's doctor/physician's assistant certifies the Appellant has a need for assistance with a at least one of his ADLs at a level 3 or greater. See ASM 101, pages 1-2 of 4. Since the Appellant's doctor/physician's assistant certified no such need, the Appellant is ineligible to receive any type of 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 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: ██████████

Date Mailed: ██████████


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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.