

**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:

██████████,

Appellant

Docket No. 2013-62130 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 ██████████ Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker for ██████████ County DHS ██████████ Office, appeared as witnesses for the Department. ██████████, Adult Services Supervisor, was also present but did not testify.

ISSUE

Did the Department properly terminate the 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. The Appellant has been diagnosed with kidney disease, hypertension, low back pain, venous insufficiency in her legs, right knee pain, anxiety disorder, CHF, osteoarthritis, hiatal hernia, acid reflux. (Exhibit A, p. 9).
3. On ██████████, Appellant's doctor completed a DHS 54A Medical Needs form indicating the Appellant only needed assistance with taking medications, meal preparation, shopping, laundry, and house work. (Exhibit B, p. 2).

4. On ██████████, the ASW went to the Appellant's home and completed an in-home assessment to determine Appellant's continued eligibility for HHS with Appellant and her provider. Appellant's abilities and needs for assistance were discussed. The ASW went over the Activities of Daily Living ("ADLs") and IADLs included in the HHS program with the Appellant. Appellant reported being independent with ADLs and only receiving assistance with IADLs. (Exhibit A, pp. 12-13 and testimony).
5. Based on the available information, the ASW concluded that the Appellant did not have a need for hands on assistance with any ADLs. (Exhibit A, p. 13).
6. On ██████████, the Department sent the Appellant an Advance Negative Action Notice, which informed her that effective ██████████ her HHS case would be terminated based on the policy effective ██████████ that requires the need for hands on services with at least one ADL, and her recent assessment did not identify a need for assistance with any of her ADLs. (Exhibit A, pp. 5-8).
7. On ██████████, the Appellant's request for hearing was received by the Michigan Administrative Hearing System. (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.

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:

- 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.
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].

On [REDACTED] the ASW went to the Appellant's home and completed an in-home assessment to determine the Appellant's continued eligibility for HHS. The Appellant's provider was present. The Appellant's abilities and needs for assistance were discussed. The ASW went over the ADLs and IADLs included in the HHS program with the Appellant. The Appellant reported being independent with ADLs and only needed assistance with IADLs. (Exhibit A, pp. 12-13 and testimony) Accordingly, the ASW determined that the Appellant's HHS case must be denied because she did not need hands on assistance, functional ranking 3 or greater, with at least one ADL. (Exhibit A, p. 13 and testimony).

The ASW stated the Appellant advised her during the [REDACTED] home visit she could wash her face and body in the bathroom and uses a grab bar to get in and out of the tub. The Appellant told her sometimes her provider will bring toiletries to the living room so she can wash up while on the couch. The Appellant said she can dress herself and put on her socks and shoes, but usually wears pajamas unless she has to go out. The ASW stated the Appellant told her she can toilet herself, brush her hair, brush her teeth, feed herself and cut up her own food. Appellant also advised she could do her own in-home dialysis treatments. Finally, the Appellant and her provider told the ASW that the provider cooks, cleans and shops for the Appellant.

The Appellant testified during the hearing that her condition has gotten worse since the redetermination. She indicated her doctor filled out a prescription form to indicate she now needs assistance with her personal care activities including housework, laundry, meal preparation, running errands, shopping, grooming, dressing, bathing, and bandage and dressing changes. Appellant testified she now has ulcers from an infection on both of her legs. Her immune system does not fight off the infections. Appellant says she has no energy and no quality of life. Appellant testified her provider comes each day to make sure she has eaten. Appellant said she can only prepare sandwiches for herself and can't prepare healthy meals. She said her house is a mess, and she just gets out of bed and goes to the couch. Appellant stated she doesn't do her dialysis treatments all the time.

The evidence in this case shows that at the time of the redetermination on [REDACTED], the Appellant did not require hands on assistance, functional level 3 or greater, with at least one ADL. The ASW provided credible, detailed case notes and testimony regarding the [REDACTED] home visit with the Appellant and her provider which demonstrated the Appellant's ineligibility for HHS at that time. (Exhibit A, pp. 12-13 and testimony). Accordingly, the denial of the Appellant's request for HHS based on no need for hands on assistance, functional ranking 3 or greater, with at least one ADL should be upheld. However, the evidence does appear to show that the Appellant's condition has worsened since her redetermination such that a new application for HHS would seem to be in order.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied the Appellant's request for HHS based on the information available at the time of her redetermination.

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.