

**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:**

██████████,

Appellant.

**Docket No.** 2013-62132 HHS

**Case No.** 57135226

**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 ██████████. ██████████, Appellant's sister, appeared and testified on Appellant's behalf. Appellant was also present during the hearing, but did not testify. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) at ██████████ County DHS, testified as a witness for the Department.

**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 who has been diagnosed with hypertension, diabetes, chronic obstructive pulmonary disease, and a stroke. (Respondent's Exhibit A, page 13).
2. Appellant has been receiving HHS through the Department since ██████████. (Respondent's Exhibit A, page 12).
3. Most recently, she was authorized for 34 hours and 11 minutes of HHS per month, with a total monthly care cost of \$████████. (Respondent's Exhibit A, pages 15).
4. Specifically, Appellant was authorized for assistance with grooming, dressing, mobility, taking medications, housework, laundry, shopping, and meal preparation. (Respondent's Exhibit A, pages 15).
5. The tasks of taking medications, housework, laundry, 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 tasks of grooming, dressing, and mobility are identified as an Activity of Daily Living (ADL) by the Department. (ASM 101, page 1 of 4).
7. On ██████████, ASW ██████████ conducted a home visit and reassessment of Appellant’s services. Appellant, her provider and her representative were present. (Respondent’s Exhibit A, page 16).
8. During that home visit, ASW ██████████ asked Appellant about the assistance she was receiving and both Appellant and her representative reported that she only needed assistance with housework, laundry, shopping, and meal preparation. (Respondent’s Exhibit A, page 16; Testimony of ASW ██████████; Testimony of Appellant’s representative).
9. Based on those reports, ASW ██████████ determined that Appellant did not require any assistance with ADLs and, consequently, no longer qualified for HHS. (Respondent’s Exhibit A, page 12; Testimony of ASW ██████████).
10. On ██████████, the Department issued an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective ██████████. The notice of termination also stated that Appellant’s HHS was being terminated because she did not have a need for hands-on assistance with any ADLs as required by policy. (Respondent’s Exhibit A, pages 5-7).
11. On ██████████, the Department sent Appellant written notice that her case had been closed. (Respondent’s Exhibit A, pages 8-10).
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent’s Exhibit A, 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.

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**

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

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

*ASM 101, pages 1-3 of 4  
(Emphasis added)*

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 2-3 of 5  
(Emphasis added)*

As described in the above policy, an individual is only eligible to receive HHS in general or for assistance with an IADL specifically if he or she has a need for assistance with at least one ADL at a level 3 or greater, *i.e.* some hands-on physical assistance.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive any HHS. That decision was based on information obtained directly from Appellant and her representative during the home visit. As written in her notes and testified to by ASW ████████, they expressly reported that she only requires assistance with the IADLS of housework, laundry, shopping, and meal preparation.

In response, Appellant's representative testified that, in addition to assistance with IADLs, Appellant also requires assistance with the ADL of bathing. However, she also testified that neither she nor Appellant told ASW ████████ that Appellant requires assistance with bathing. Appellant has never received assistance with bathing in the past and the Department is justified in relying upon what was reported during the home visit. Given the reports in this case, the Department therefore properly found that Appellant does not qualify for assistance with the ADL of bathing.

Additionally, with respect to the ADL of mobility, Appellant's representative testified that Appellant is a fall risk and needs help with mobility. However, she also acknowledged that Appellant's needs have increased since the negative action in this case and it is only now that Appellant uses a walker. This Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had the time it made that decision. Here, based on Appellant's own reports, Appellant's need for assistance with mobility did not rise to a level 3 or greater at the time relevant to this decision. To

the extent Appellant's needs have changed or she has new information to provide, she is free to re-request HHS at any time.

Appellant and her representative further testified that Appellant requires transportation and supervision while completing other ADLs. However, as provided in the above policy and testified to by the Department's witness, neither supervision nor transportation are covered services in the Home Help Program.

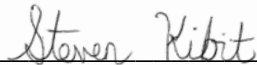
Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating her HHS. Here, given the record in this case, Appellant and her representative have failed to meet that burden of proof and the Department's decision must be sustained.

**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.

**IT IS THEREFORE ORDERED THAT:**

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



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

[REDACTED]  
Date Signed: 10/11/2013

Date Mailed: 10/11/2013

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.