

**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. 2013-64313 HHS
Case No. ██████████
Hearing Date: ██████████

ADMINISTRATIVE LAW JUDGE: William D. Bond

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Appellant's request for a hearing. After due notice, a telephone hearing was held on the date indicated above. ██████████ appeared on behalf of the Appellant. The Appellant appeared and testified on her own behalf. ██████████ and ██████████ also testified for the Appellant. ██████████, Appeals Review Officer, appeared on behalf of the Department of Community Health (Department). ██████████ Adult Services Worker for ██████████ County DHS, testified on behalf of the Department. ██████████ Adult Services Supervisor was also present but did not testify.

ISSUE

Did the Department properly assess Appellant for Home Help Services?

FINDINGS OF FACT

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

1. The Appellant is a ██████ year-old (██████████) Medicaid beneficiary and a recipient of Home Help Services (HHS). (Testimony).
2. On ██████████, the Appellant's Adult Services Worker (ASW) along with her Adult Services Supervisor completed an in-home comprehensive assessment to determine Appellant's continued need for HHS services. (Exhibit A, pp. 26-27, and testimony).
3. The ASW authorized a total of ██████ hours and ██████ minutes of HHS per month for a total monthly care cost of ██████████, with an effective start date of ██████████. (Exhibit A, p. 45 and testimony).

██████████
Docket No. 2013-64313 HHS
Decision and Order

4. On ██████████ the Department sent Appellant a Services Approval Notice notifying her that she was approved for a total of ██████ hours and ██████ minutes of HHS per month for a total monthly care cost of ██████, with an effective start date of ██████████. The approval notice stated the total monthly time had been increased due to an increase for grooming and bowel program. The prior amount approved was ██████ hours and ██████ minutes for a monthly care cost of ██████. (Exhibit A, pp. 10-11, 17-18).
5. On ██████████, the Michigan Administrative Hearing System received the Appellant's Request for Hearing. (Exhibit A, pp. 4-6).

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.

The Department of Community Health HHS Medicaid policy is found in the Department of Human Services Adult Services Manual (ASM) at ASM 100-170. ASM 120, pp. 1-5 of 7, 5-1-2013, provides HHS policy for comprehensive assessments. ASM 120 provides in pertinent part:

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:

Docket No. 2013-64313 HHS
Decision and Order

- 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. This form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion adult protective services 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.

**Docket No. 2013-64313 HHS
Decision and Order**

- 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 level 3 ranking or greater.

Docket No. 2013-64313 HHS
Decision and Order

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.

* * *

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.

Complex Care Needs

Complex care refers to conditions requiring intervention with special Needs techniques and/or knowledge. These complex care tasks are performed on client's whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating and feeding.
- Catheters or legs bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Peritoneal dialysis.
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

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.

**Docket No. 2013-64313 HHS
Decision and Order**

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. [ASM 120, pp. 1-5 of 7].

ASM 115, 5-1-2013, provides HHS policy for applications for services. ASM 115 provides in pertinent part:

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. [ASM 115, p. 2 of 3].

Appellant's Adult Services Worker (ASW) [REDACTED] stated on [REDACTED] she and her Adult Services Supervisor conducted an in-home assessment to determine Appellant's continued need for HHS services. The ASW referred to her rankings for the Appellant's ADLs and IADLS based on the [REDACTED] assessment. (Exhibit A, pp. 30-33). She gave a ranking of 4 for bathing because Appellant said she needed help getting in and out of the tub, washing her back and legs, and was unable to twist and bend. Appellant also said she needed help washing her head as her right arm did not work very well. Appellant was not fully dependent so she received a ranking of 4. For grooming the ASW gave a ranking of 4 because Appellant said she needed assistance shaving her head, cutting her nails and applying lotions and ointments. Appellant was not fully dependent so she received a ranking of 4. For dressing the ASW gave a ranking of 4 because Appellant said she needed assistance getting her lower body garments on and off, some days she would have trouble getting her bra and shirt on and off and she changed from one type of bra to another during the day. Appellant was not fully dependent for dressing so she received a ranking of 4.

██████████
Docket No. 2013-64313 HHS
Decision and Order

For toileting the ASW gave a ranking of 4 because Appellant was not fully dependent, but Appellant said she needed hands-on assistance with the wiping and had an enema program. (The notes from the assessment indicate the bowel program with enemas was only for █ months from ██████████, and Appellant is only doing a food program now.) For transferring the ASW gave a ranking of 4 because Appellant said she needed help some of the time getting in and out of her bed and her chair. For incontinence the ASW gave a ranking of 5 because Appellant has incontinence and needs assistance from her provider to clean up afterwards. For eating the ASW gave a ranking of 3 because Appellant said she required assistance cutting up her food, but she did not need to be fed. For mobility the ASW gave a ranking of 3 because Appellant said she is in a wheelchair a lot of the time, and sometimes her provider needs to push her in her wheelchair other times Appellant can do it on her own. For medications the ASW gave a ranking of 3 because Appellant said her provider helps her with her medications/ointments that she cannot apply by herself and with her vitamins. (Appellant's request for hearing indicates that she quit all the prescriptions the doctors had her on in ██████████).

The ASW acknowledged that for housework Appellant was ranked at a 5, and for laundry, shopping and meal preparation Appellant was ranked at a 4. Despite the rankings, Appellant was given the maximum allowable hours for each of the IADLs. (Exhibit A, pp. 45-46, 51). For housework the ASW authorized █ hours and █ minute; for laundry the ASW authorized █ hours and █ minute; for shopping the ASW authorized █ hours and █ minute; and, for meal preparation the ASW authorized █ hours and █ minutes. According to the Services Approval Notice sent to the Appellant on ██████████, the Department approved a total of █ hours and █ minutes of HHS per month for a total monthly care cost of ██████████, with an effective start date of ██████████. (Exhibit A, pp. 10-11). In addition to the maximums approved for Appellant's IADLs, (█ hours and █ minutes per day), Appellant was approved for an additional █ hours and █ minutes per day, allocated as follows: 1█ minutes for bathing, █ minutes for toileting, █ minutes for grooming, █ minutes for dressing, █ minutes for transferring, █ minutes per day for range of motion exercises, an 1 hour per day for her bowel program. Accordingly, Appellant was approved for a total of █ hours and █ minutes per day.

The ASW stated the time approved for each of the above tasks took into consideration the doctor's statements (Exhibits 1 & 2), consultation with her supervisor, the input from ██████████ the DCH RN who evaluates cases for expanded home help, the Appellant's input, the ASW's own observations during the in-home assessment, and the provider's input. The ASW stated toileting and a bowel program were both authorized, but toileting was only for bladder related issues, range of motion was reduced, and grooming was increased to allow time for application of ointments and lotions. (Exhibit A, p. 23 and testimony of ASW).

██████████
Docket No. 2013-64313 HHS
Decision and Order

According to the policy quoted above, the ASW would have allocated time for each task assessed a rank of 3 or higher, based on interviews with the Appellant and her provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a guide. Furthermore, the 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 ASW was required to assess each task according to the actual time required for its completion. The ASW stated that she believed the times assigned for each task were appropriate to meet the needs determined from the face-to-face assessment, and the doctor's statements (Exhibits 1 & 2), consultation with her supervisor, the input from ██████████ the DCH RN who evaluates cases for expanded home help, the Appellant's input, the ASW's own observations during the in_home assessment, and the provider's input.

According to the Appellant's testimony, she was only receiving ██████ hours per day and she believes that considering the statements signed by her doctors that were admitted during the hearing, the amount of time authorized should be double for a total of ██████ hours per day. Based upon the preponderance of the evidence contained in the record, Appellant's position is without merit.

According to Appellant's former caregiver, ██████████ Appellant can go to and from the bathroom, but needs help in the restroom cleaning up. Appellant can walk in and out of the shower, but needs help washing up. Appellant is able to eat on her own. ██████████ indicated she shaved Appellant from top to bottom and put lotion on her from top to bottom and Appellant would do what she could to help. ██████████ helped Appellant with dressing and indicated Appellant could not put on her bra by herself which she would change again later in the day. ██████████ stated she helped Appellant in and out of the car whenever she took her someplace. ██████████ stated while in the apartment she would only guide the Appellant to make sure she wouldn't fall. ██████████ stated most of the time Appellant is in a wheelchair.

██████████ a friend of the Appellant's testified that recently Appellant has gone downhill and uses her wheelchair now. He indicated he is at the Appellant's ██████ or ██████ a week and thinks she could use more help with physical exercise and personal care. He said she needs continued help with dressing, grooming mobility and transferring. He acknowledged the Appellant was only on vitamins and a couple of creams. ██████████ stated he believed Appellant needed someone to help in the evening, he did not think it was comfortable to wear a sports bra for ██████ hours. He said he felt Appellant was much better when she had more time for range of motion exercises.

██████████ Appellant's current caregiver testified she has been Appellant's caregiver since ██████████. She indicated she works ██████ hours per day from ██████████ to ██████████. ██████████ indicated she was not able to give Appellant a second shower each day or change her bra. ██████████ stated if the Appellant makes a mess on the floor in the

██████████
Docket No. 2013-64313 HHS
Decision and Order

bathroom she can't just leave it and go home, she would have to clean it up. She said she gives Appellant a bath and cleans her up good in the morning, but believes Appellant needs a second bath if she has an accident in her pants. ██████████ helps Appellant dress every day. ██████████ indicated Appellant needed to be transferred all the time; she can't get up on her bed, can't get off the toilet, and can't get in and out of the car. ██████████ indicated Appellant's mobility has gone down since she has known her, she said Appellant is completely dependent on her, but she still tries to let her be independent.

Appellant testified she is getting ██████████ hours per day of HHS, and believes the amount of time should be doubled so she can do the things on the statements signed by her doctors a second time during the day. She wants her bra changed later in the day. She said she needs a second shower due to her incontinence and her hot sweats at night. Appellant said she needs someone to help her take off her T-shirt in the evening because she can't get it off herself.

Appellant stated she needs more time to have the ointments put on her a second time according to the prescription, and she needs more time for range of motion, as the doctor wants her to walk ██████████ hours per week, a half hour per day. Appellant said she did not think ██████████ minutes was enough time for bathing, she indicated it takes her girl ██████████ minutes to bathe her. Appellant said it takes an hour ██████████ a week to shave her. Appellant indicated getting dressed takes time she can't put on her socks, but can put on her underwear if she is sitting. She stated she has a lot of incontinence and felt she needed more time approved for toileting and incontinence.

Appellant stated in general she disagreed with the amount of time authorized for the various tasks. Appellant indicated she could walk around her apartment with assistance, and they have arranged the furniture around the apartment so she can use it to grab on to, but she uses the wheelchair more now. Appellant indicated she could get in and out of her chair and walk around the apartment when no one else was around. Appellant indicated she only needed reminders to take her vitamins and flaxseed oil. Appellant said she can hang up her underwear, and tries to heat up some of her foods, but is not good at it. Appellant concluded by stating she was appealing based on the things listed in the statements signed by her doctors, and she believes she should be authorized for at least ██████████ hours per day based on these statements.

First, in deciding this matter very little weight is being given to the statements signed by the Appellant's doctors. The policy from the Adult Services manual quoted above makes it clear that the ASW by way of the comprehensive assessment determines the needed HHS services. It is noted that the doctor's statements are over a year old. For the most part, the statements do not propose any specific amounts of time that would be required for the various items listed. Finally, the statements clearly indicate that they are not the doctor's own statements, but rather documents that were actually generated by the Appellant and only signed by the doctors. It is unclear what the doctor's own assessments are concerning the Appellant's condition and her need for HHS services.

██████████
Docket No. 2013-64313 HHS
Decision and Order

The testimony of the Appellant and her witnesses are mostly general statements that indicate disagreement with the ASW's rankings, and her determination of the amount of time that is actually needed to complete the hands-on assistance to complete the tasks authorized for HHS. For example, there is conflicting evidence in the record, as to whether the Appellant is on a bowel/enema program; nevertheless, she is authorized a whole ██████ each day for such a program and an additional ██████ minutes per day for toileting. While the function of undersigned is not to determine the amount of time to be authorized for any given task, as indicated by the ASW, this does seem like it would be an adequate amount of time to provide hands-on assistance with these authorized tasks. There is also conflicting testimony from Appellant's own witnesses as to the Appellant's actual physical capabilities. The DCH Nurse, ██████████ also pointed out that the range of motion exercises described in the statements signed by the Appellant's doctor were not something that a provider could provide assistance with for the Appellant. Finally, Appellant's simple math, just double the amount of time I am now getting, does not work out, especially when you consider that she is already getting the program maximum allowed for housework, laundry, shopping and meal preparation.

Most concerning are the statements from the Appellant's former caregiver ██████████ that were given to the ASW on ██████████ stated she would be willing to testify at a hearing if necessary concerning these matters. Among other things, ██████████ reported that the Appellant makes up a lot of things. ██████████ stated the Appellant gets around just fine and can walk. She stated the Appellant had no problems with arm movements. She also stated that the Appellant walks to the tanner every day to get a tan. ██████████ stated she was present for the ██████████ in-home assessment, she knew the Appellant was lying during the assessment, and decided the next day she would not be going back to work for the Appellant. ██████████ stated the Appellant keeps asking for more help, but does not need the help. She stated the Appellant is rarely in a wheelchair, only when DHS is around. (Exhibit A, p. 25).

This ALJ finds that given the worker's observations of the Appellant and the information obtained during the ██████████ assessment, the amount of service hours assigned by the ASW were sufficient to meet the personal care needs of the Appellant. In fact, based on the statements of the Appellant previous provider that were admitted without objection during the hearing as part of Exhibit A, p. 25, the hours approved for the Appellant's HHS may actually be more than are actually needed.

Therefore, based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly assessed the Appellant for HHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly assessed the Appellant's Home Help Services. Accordingly, the Department's Home Help Services 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: 

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.