

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. 2013-65001 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 ██████████ appeared on behalf of the Appellant. Appellant also appeared and testified on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) from the ██████████ County DHS Office, appeared as a witness for the Department.

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 with blindness. (Exhibit A, p. 5).
3. On ██████████ the Appellant's physician completed a Medical Needs Form, a DHS-54A, indicating that Appellant had a medical need for assistance with meal preparation, shopping, laundry, and housework. (Exhibit A, p. 5).
4. On ██████████, the ASW, did a home visit with the Appellant and did a face-to-face assessment to determine Appellant's eligibility for HHS. The ASW determined that Appellant did not meet the criteria for HHS as she did not need hands on assistance with any of her ADLs. (Exhibit A, pp. 12-13 and testimony).

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5. On [REDACTED] the Department issued an Adequate Action Notice to Appellant informing her that HHS would be denied because she did not meet the minimal qualifications for HHS. (Exhibit A, pp. 8-11 and testimony).
6. 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 (5-1-2012) (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, emphasis added].

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 or 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 6, emphasis added].

Here, the ASW testified on ██████████ she did a home visit with the Appellant and her brother-in-law ██████████ and did a face-to-face assessment to determine Appellant's eligibility for HHS. The ASW determined the Appellant did not meet the criteria for HHS as she did not need hands on assistance with any of her ADLs. Appellant told the ASW that she did not need hands on assistance with any of her ADLS. The ASW stated the Appellant said because she is legally blind she has trouble reading medicine bottles and she was unable to see enough to clean her house, or do her laundry, The ASW stated the Appellant is not cognitively impaired, but indicated she does need assistance with cooking, and monitoring what she can do in the kitchen.

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The ASW referred to the rankings she gave the Appellant as a result of her assessment. The Appellant was ranked a 1 for all of her ADLs, and with a 4 for housework, laundry, and shopping. She was ranked a 3 for meal preparation. The ASW also stated the Medical Needs form, the DHS-54A completed by the Appellant's doctor and submitted along with the Appellant's application, indicated that the Appellant only had a medical need for assistance with meal preparation, shopping, laundry, and housework. The ASW stated that according to the Appellant and her doctor, the Appellant did not need any hands on assistance with any of her ADLs.

The ASW stated on [REDACTED] she sent out an Adequate Negative Action Notice to the Appellant informing her that HHS would be denied because she did not meet the minimal qualifications for HHS. (See Exhibit A, pp. 8-11).

The ASW referenced the policy on eligibility for HHS, (see ASM 120, page 3 of 5), and stated HHS may only be authorized for needs assessed at the 3 level or greater and that an individual must be assessed with at least one activity of daily living in order to be eligible to receive HHS. The ASW acknowledged that the policy supported the negative action she took in this case.

During the hearing, Appellant indicated that there was a safety issue with her lack of sight. She indicated she had caught a potholder on fire in the kitchen because she could not see that it had fallen in the oven. She stated she needed assistance with cooking, cleaning, shopping and going to the doctor. Appellant further indicated she was just diagnosed with diabetes, and she now has to deal with testing her blood sugar and dealing with her diabetes. Appellant acknowledged that she did not advise the ASW that she had any safety concerns in completing her ADLS. She also acknowledged she has not had any recent falls.

Appellant's representative questioned the ADL of mobility and asked whether the Appellant's need for assistance to travel outside of the home or to go to areas of the house she did not frequent since the Appellant had limited herself to the first floor would be considered a need for assistance with an ADL. The Department pointed to the ASM 121, the policy setting forth the functional assessment definitions, which states that mobility includes: "[w]alking or moving around inside the living area, changing locations in a room, assistance with stairs or maneuvering around pets, or obstacles including uneven floors." (See AMS 121, 11-1-2011, p. 3 of 4, Exhibit A, p. 19).

The preponderance of reliable evidence in this case demonstrates that at the time of the ASW's assessment, and according to the Medical Needs form from her doctor, the Appellant did not need hands on assistance with any of her ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if she has a need for assistance with an ADL at a level 3 or greater. See ASM 101, page 2 of 4; ASM 120, page 3 of 6. Appellant had demonstrated no such need at the time of her assessment and was properly found to be ineligible to receive any type of HHS. Accordingly, the Department's decision must be sustained.

[REDACTED]
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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: [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.