

**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:**

Docket No. 2013-65366 HHS

██████████

██████████

██████████

Appellant.

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**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's mother and authorized representative appeared on behalf of the Appellant. Appellant also appeared but did not testify. ██████████ 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 Aspergers and schizophrenic disorder. (Exhibit A, p. 5).
3. On ██████████ the ASW issued an Adequate Action Notice to Appellant informing him that HHS would be denied because he did not return a Medical Needs Form, a DHS-54A by the due date. (Exhibit A, pp. 6-8 and testimony).
4. On ██████████, the Appellant's physician completed a Medical Needs Form, a DHS-54A, and checked yes on the form indicating the Appellant had a medical need for assistance with personal care activities. (Exhibit A, p. 23).
5. 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

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ASW then had a follow-up telephone call with the Appellant's provider/mother to clarify whether Appellant needed hands on assistance with any of his ADLs and she determined that Appellant did not meet the criteria for HHS as he did not need hands on assistance with any of his ADLs. (Exhibit A, pp. 19-22 and testimony).

6. On [REDACTED], the ASW issued an Adequate Action Notice to Appellant informing him that HHS would be denied because he did not need hands on assistance with any of his ADLs. (Exhibit A, pp. 9-14 and testimony).
7. On [REDACTED], MAHS received Appellant's Request for Hearing. (Exhibit A, p. 4-5).

**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

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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, 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.
3. **Some Human Assistance:** Performs the activity with some direct physical assistance and/or assistive technology.

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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].

Here, the ASW stated on ██████████ she sent out a negative action denying the Appellant HHS because a Medical Needs form, a DHS-54A was not returned by the ██████████ due date. The record shows that the Medical Needs form, the DHS-54A was completed by the Appellant's doctor on ██████████, and was returned thereafter to DHS. The DHS-54A completed by the Appellant's doctor was checked "Yes" indicating the Appellant had a medical need for assistance with personal care activities, but no specific needs were identified. (Exhibit A, pp. 6-8, 23).

The ASW further stated on ██████████, she did a home visit with the Appellant and his mother/provider and did a face-to-face assessment to determine Appellant's eligibility for HHS. On ██████████, the ASW had a follow-up telephone contact with the Appellant's mother/provider to clarify whether there was a need for hands on assistance with any of the Appellant's ADLs. The ASW determined the Appellant did not meet the criteria for HHS as he did not need hands on assistance with any of his ADLs. (Exhibit A, pp. 19-22).

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The ASW referred to the rankings she gave the Appellant as a result of her assessment. The Appellant was ranked at a 2 for bathing, grooming, and dressing as he needed prompting and reminders to complete these ADLS. The Appellant was ranked at a 3 for his IADLS of taking medications, housework, laundry, shopping, and meal preparation. The ASW acknowledged that according to policy HHS does not pay for prompting or reminders. (See ASM 101, p. 3 of 4, and ASM 120, pp. 2-3 of 5 quoted above).

The ASW stated on [REDACTED] she sent out an Adequate Negative Action Notice to the Appellant informing him that HHS would be denied because he did not need hands on assistance with any of his ADLs. (See Exhibit A, pp. 9-14).


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, the Appellant's mother/authorized representative indicated the Appellant is autistic and has a neurological disorder. She indicated the Appellant's answers can be inconsistent. Appellant's mother indicated she told the ASW Appellant has disorganized thinking. She indicated he also has speech impairments which affect his communications. Appellant's mother indicated she tried to clarify some of the ASW's questions during the home visit. She also indicated that Appellant's condition changes from day to day and some days he can't prepare his food or groom himself. When questioned by the Department representative, the Appellant's mother admitted she was present during the in-home assessment on [REDACTED]. She also acknowledged that she spoke with the ASW on [REDACTED] when the ASW called to clarify the Appellant's personal care needs.

The preponderance of reliable evidence in this case demonstrates that at the time of the ASW's assessment, the Appellant did not identify a need for hands on assistance with any of his ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if he 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 5. Appellant had demonstrated no such need at the time of his assessment and was properly found to be ineligible to receive any type of HHS. Accordingly, the Department's decision must be sustained. Appellant's suggestion that the prompting and reminders the Appellant needs should be covered by HHS is contrary to the written policy that both the Department and this Administrative Law Judge must follow. (See ASM 101, p. 3 of 4, and ASM 120, pp. 2-3 of 5 quoted above).

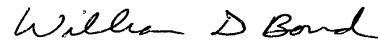
**DECISION AND ORDER**

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.

  
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IT IS THEREFORE ORDERED THAT:

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



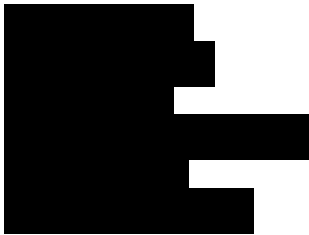
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William D. Bond  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed:

Date Mailed:

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**\*\*\* 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.