

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. 2013-67358 HHS
Case No. ██████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ), pursuant to M.C.L. § 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 daughter ██████████ appeared and offered testimony on the Appellant's behalf. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department. ██████████ Adult Services Supervisor was present but did not testify.

ISSUE

Did the Department properly reassess 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 Medicaid beneficiary.
2. Appellant has been diagnosed with severe chronic obstructive pulmonary disease and osteoarthritis. (Exhibit A, p. 10).
3. As of ██████████, the Appellant was living with her son.
4. On or around ██████████, the ASW discovered the Appellant was living with her son.
5. On ██████████, the ASW conducted a reassessment based upon the Appellant's living arrangement and determined that the chore services had to be prorated. (Exhibit A, p. 6 and testimony).

██████████
Docket No. 2013-67358 HHS
Hearing Decision & Order

6. The ASW reduced the total time for housework, shopping and meal prep by half due to policy requiring a proration of IADLs for a shared household. (Exhibit A, pp. 13, 14 and testimony)
7. On ██████████, the Department sent Appellant an Advance Negative Action Notice. The Negative Action notice stated the action and reasons for the action. (Exhibit A, pp. 5-8).
8. On ██████████, MAHS received Appellant's Request for Hearing. (Exhibit 1, and 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 agencies.

Adult Services Manual 120 (5-1-12) (hereinafter "ASM 120") addresses the maximum number of hours and the proration of Instrumental Activities of Daily Living (IADLs) services:

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

Proration of IADLS

If the client does not require the maximum allowable hours for IADLs, authorize only the amount of time needed for each task. Assessed hours for IADLs (except medications) must be prorated by **one half** in shared living arrangements where other adults reside in the home, as home help services are **only** for the benefit of the client.

██████████
Docket No. 2013-67358 HHS
Hearing Decision & Order

Note: This does not include situations where others live in adjoining apartments/flats or in a separate home on shared property and there is no shared, common living area.

In shared living arrangements, where it can be **clearly** documented that IADLs for the eligible client are completed separately from others in the home, hours for IADLs do not need to be prorated. [ASM 120, page 4 of 5, emphasis added].

MCL 28.291a provides in part:

(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11. [MCL 291a(c)].

MCL 28.292 provides in part:

(1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card. [MCL 28.292].

At some point in time prior to ██████████, the Appellant made changes to her living situation and began living with her son. The Appellant did not apprise the Department of this change. On or around ██████████, the Department discovered the change and reassessed the Appellant's services based upon the change.

The ASW testified the total time authorized for housework, shopping and meal preparation were all prorated and decreased by half due to the policy requiring a proration of IADLs for a shared household.

The Appellant's Representative did not dispute the living situation or offer any arguments as to why the IADL's shouldn't be prorated.

Docket No. 2013-67358 HHS
Hearing Decision & Order

The preponderance of the reliable evidence shows the ASW properly reassessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the reassessment showed the Appellant was in a shared living arrangement with her son. Given this shared living arrangement, the Department was bound to follow the mandated policy and prorate the HHS time and payment for the IADLs noted, by at least one-half.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that, based on the available information, the Department properly reassessed Appellant's HHS.

IT IS THEREFORE ORDERED THAT:

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

/s/ _____

Corey A. Arendt
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Signed: October 17, 2013

Date Mailed: October 17, 2013

***** 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.