

**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:

████████████████████

Appellant.

Docket No. 2013-69107 HHS

████████████████████

████████████████████

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 appeared and testified on her own behalf. ██████████ Appellant's son, also testified as a witness for Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████ ██████████, Adult Services Supervisor, from the ██████████ County DHS-██████████ Office appeared as witnesses 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 who has been diagnosed with chronic obstructive pulmonary disease, asthma, and issues with her knees. (Respondent's Exhibit A, pages 10, 14).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 9).
3. As part of her application, Appellant submitted a medical needs form signed by her doctor on ██████████ (Respondent's Exhibit A, page 14).
4. In that form, Appellant's doctor indicated that Appellant has a medical need for assistance with the tasks of laundry, housework, shopping, and meal preparation. (Respondent's Exhibit A, page 14).

5. The tasks of taking medications, shopping, laundry, housework, 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. On ██████████ ASW ██████████ conducted a visit and assessment in Appellant's home with Appellant and Appellant's family. (Respondent's Exhibit A, pages 12-13).
7. During that assessment, Appellant did not use any adaptive equipment and demonstrated an ability to ambulate and transfer independently. (Respondent's Exhibit A, pages 12-13; Testimony of ASW ██████████).
8. Appellant and her family also reported that, while she needs to be monitored while bathing and occasional assistance braiding her hair, Appellant is independent in all other Activities of Daily Living (ADLs). (Respondent's Exhibit A, pages 12-13; Testimony of ASW ██████████).
9. Appellant and her family further reported that she requires assistance with shopping, laundry, and housework. (Respondent's Exhibit A, pages 12-13; Testimony of ASW ██████████).
10. Based on the medical needs form signed by Appellant's doctor and the reports made during the assessment, ASW ██████████ determined that Appellant's request for HHS should be denied. (Respondent's Exhibit A, page 9)
11. On ██████████, the Department sent written notice to Appellant indicating that her application for HHS was being denied as she did not require any hands-on assistance with any Activity of Daily Living (ADL). (Respondent's Exhibit A, pages 5-8).
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (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

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

ASM 101, pages 1-3 of 4

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 2-4 of 5

As described in the above policy, an individual is only eligible to receive HHS in general or with IADLs in particular if he or she also has a need for assistance with at least one ADL at a level 3 or greater.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive HHS as she requested. That decision was based on the information obtained directly from Appellant, Appellant's family, and Appellant's doctor. As discussed above, Appellant's doctor indicated in Appellant's medical needs form that Appellant only has a medical need for assistance with the IADLs of laundry, housework, shopping, and meal preparation. Appellant and her family similarly reported that, with the exception of a need to be monitored while bathing, Appellant was independent in all ADLs during the home visit and she did not require any hands-on assistance with any ADL at all. They also only requested assistance with the IADLs of shopping, laundry, and housework. Furthermore, Appellant did not use any adaptive equipment during the home visit and demonstrated an ability to ambulate and transfer independently.

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In response, Appellant does not dispute ASW ██████████ notes or testimony and instead testified that her condition has worsened since the assessment. According to Appellant, she is now at risk of falling when walking and she has started using a walker. However, while Appellant's testimony is credible, this Administrative Law Judge's jurisdiction is limited to reviewing the Department's decision based on the information available at the time it made that decision. Here, Appellant did not have need for assistance with at least one ADL at a level 3 or greater at the time of the denial. To the extent Appellant has new or additional information she wants to provide, that information would have to be the subject of a new request for HHS through the Department. Appellant is free to submit a new application at any time.

Appellant's son did testify that Appellant has always needed assistance with bathing and that he reported a need for such assistance to ASW ██████████. However, the type of assistance he identified, *i.e.* monitoring, is not covered by HHS. See ASM 101, page 3 of 4. Moreover, to the extent Appellant's son testified that she required more assistance with bathing at that time, this Administrative Law Judge does not find him to be credible given the medical needs form, Appellant's testimony, and ASW ██████████ testimony.

Accordingly, with respect to the denial at issue in this case, the Department properly found that Appellant has no need for physical assistance with any ADLs and its decision to deny services on that basis must be affirmed.

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**.

Steven Kibit

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

Date Signed: ██████████

Date Mailed: ██████████


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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.