

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. 14-012014 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 ██████████ on ██████████ Client Advocate with ██████████ appeared and testified on behalf of the Appellant. Appellant also testified on her own behalf. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Supervisor for ██████████ County Department of Human Services 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 (DOB █████) Medicaid beneficiary. (Testimony).
2. Appellant has been diagnosed with seizure and CVA - weakness to left side. (Exhibit A, p. 16).
3. On ██████████ the Appellant's 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 the Appellant did not need hands on assistance with any of her ADLs. (Exhibit A, pp. 11, 12, 13 and testimony).
4. On ██████████, NP, completed a DHS 54A Medical Needs form indicating the Appellant only needed assistance with shopping

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and laundry. However, the form was not dated below the signature line for the NP, and did not contain the NP's phone number. DHS date stamped the form received on [REDACTED]. (Exhibit A, p. 16).

5. On [REDACTED], [REDACTED] the ASW issued an Adequate Negative Action Notice to Appellant informing her that her request for HHS would be denied because her recent assessment did not identify the need for hands on assistance with any of her ADLs. (Exhibit A, pp. 8-12 and testimony).
6. On [REDACTED] DHS received a second copy of the DHS 54A form previously submitted to DHS on [REDACTED]. This second copy had grooming, transferring, taking medications, and meal preparation circled, in addition to the shopping and laundry that were previously circled on the original copy of the form. Like the first form, this form was not dated below the signature line for the NP, and did not contain the NP's phone number (Exhibit B, p. 3).
7. On [REDACTED], MAHS received Appellant's Request for Hearing. (Exhibit A, p. 4).
8. On or about [REDACTED], a third copy of the DHS 54A was received by DHS, This copy was dated [REDACTED], below the NP's signature, and contained the NP's phone number. Like the first form received on [REDACTED] 2 [REDACTED], it indicated the Appellant only needed assistance with shopping and laundry. (Exhibit B, p. 3).

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 (12-1-2013) (hereinafter "ASM 101") and Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed:

Payment Services Home Help

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.
- Light housecleaning.

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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 or her daughter agrees to assist her at no charge. 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 1-3 of 5, emphasis added].

* * *

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2). [ASM 101, page 5 of 5].

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

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- 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.

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 or her daughter agrees to assist her at no

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charge. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater. [ASM 120, pages 2-3 of 7, emphasis added].

Adult Services Supervisor [REDACTED] [REDACTED] stated that on [REDACTED] ASW [REDACTED] did a home visit with the Appellant and did a face-to-face assessment to determine Appellant's eligibility for HHS. She stated the ASW determined the Appellant did not need hands on assistance with any of her ADLs. According to [REDACTED] notes admitted during the hearing, Appellant was picking up the kitchen and wiping down the dining room table when the ASW entered the Appellant's apartment for the home visit. The notes also state that the Appellant indicated during the assessment that she was able to perform her ADLS and did not own or use any assistive device. The ASW's notes state that the Appellant did not identify the need for assistance with any of her ADLs, therefore, she was not eligible for Home Help Services. [REDACTED] [REDACTED] also stated that the nurse practitioner did not certify on the DHS 54A Medical Needs form that the Appellant required assistance with any of her ADLs.

During the hearing, the Appellant's representative indicated that back in [REDACTED] the Appellant's boyfriend was going to apply to work for their company and become the Appellant's paid caregiver. The Appellant's representative testified during the hearing that the Appellant told her she had just gotten out of the hospital and was not able to do any activities of daily living and needed help with her ADLs. Appellant's representative said the Appellant had a stroke and couldn't use her left side. She said [REDACTED] [REDACTED] asked the Appellant if she could walk to the door, and she was able to walk to the door without using the cane that she has. Appellant's representative testified the Appellant could not complete her daily activities such as meal prep at that time because she was under her doctor's care. Appellant's representative acknowledged that she was not at the [REDACTED] [REDACTED] assessment and for her testimony she was only relying on what the Appellant had told her. She said they submitted the information for HHS and the application was denied on [REDACTED].

Appellant testified she had her doctor's papers with her and she did not alter her doctor's papers at all. She said the reason for her disability is she had a stroke, she has migraine headaches, and she has a lot of seizures.

The preponderance of reliable evidence in this case demonstrates that at the time of the ASW's assessment on [REDACTED], the Appellant did not identify a need for hands on assistance with any of her ADLs. Furthermore, the nurse practitioner did not certify on the DHS 54A Medical Needs form that the Appellant required 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 5; ASM 120, page 3 of 7, and where such need is certified by a Medicaid enrolled medical professional. Appellant 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 Nick Lyon, 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.