

**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:**

██████████

Appellant

Docket No. 14-007031 REH  
Case No. ██████████

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. The ██████████ hearing was scheduled after Appellant's request for a rehearing or reconsideration of a hearing held on ██████████ was granted.

Appellant appeared and testified on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Manager (ASM) and ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

**ISSUE**

Did the Department properly terminate 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 ██████ year old Medicaid beneficiary, born ██████████, who has been receiving HHS for over ██████ years. (Exhibit A, p 12; Testimony)
2. Appellant has been diagnosed with degenerative joint disease, depression, arthritis, carpal tunnel syndrome, GERD, and chronic back pain. (Exhibit B, p 7; Testimony)
3. On ██████████, the ASW received an updated Medical Needs form from Appellant's physician, Dr. ██████████. However, the form was blank except for the bottom portion containing the physician's name and NPI number. In addition, the notes contained with the form were from an office visit with Appellant back in ██████████. (Exhibit B, p 19; Testimony)

4. On ██████████, the ASW contacted Dr. Awan's office regarding the incomplete Medical Needs form and the old office notes. The ASW asked the doctor's office if they could complete a new Medical Needs form and include notes from any more recent visits. The ASW faxed a new Medical Needs form to the doctor's office and informed them that the form was due by ██████████. (Exhibit B, p 19; Testimony)
5. On ██████████, Appellant's physician submitted a Medical Needs form along with office notes from an office visit Appellant had with him on ██████████. However, because the Medical Needs form was signed on ██████████, or 17 days prior to the ██████████ hearing, the ASW contacted the doctor's office and requested that a new Medical Needs form be filled out based on the ██████████ appointment. (Exhibit A, pp 9-10; Testimony)
6. On ██████████, Appellant's physician submitted a new Medical Needs form based on the ██████████ office visit, however, on this form, Dr. ██████████ did not certify that Appellant needed hands on assistance with any Activities of Daily Living (ADL's) or Instrumental Activities of Daily Living (IADL's). (Exhibit A, p 11; Exhibit C, p 4; Testimony)
7. Based on the ██████████ Medical Needs Form, the ASW concluded that Appellant did not have a medical need for hands on assistance with any ADL. (Exhibit A, p 10; Testimony)
8. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing her that her HHS services were being terminated based on the policy requiring a need for hands on assistance with at least one ADL, and that need being documented on a Medical Needs form by a physician. (Exhibit B, pp 9-11; Testimony)
9. On ██████████, Appellant's hearing request was received by the Michigan Administrative Hearing System. A hearing was held on ██████████ and a Dismissal Order was issued on that same date. According to the Dismissal Order, Appellant's appeal was dismissed because she refused to go ahead with the hearing after the ALJ indicated that he would not accept any documentation from Appellant that was not considered by the Department when the denial was made in ██████████. (See ██████████ Dismissal Order)
10. On ██████████, Appellant's request for a rehearing or reconsideration was received by MAHS and on ██████████ an Order Granting Request to Vacate Order of Dismissal was issued. A hearing was the held on ██████████ (Exhibit 1; Testimony)

## **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 (ASM) 110, 5-1-13, addresses the HHS referral process:

### **REFERRAL INTAKE**

A referral may be received by phone, mail or in person and must be entered on ASCAP upon receipt. The referral source does not have to be the individual in need of the services.

### **Registration and Case Disposition**

#### **Action**

Complete a thorough clearance of the individual in the ASCAP client search and Bridges search.

Complete the **Basic Client** and **Referral Details** tabs of the **Client** module in **ASCAP**.

Supervisor or designee assigns case to the adult services specialist in the **Disposition** module of **ASCAP**.

#### **Documentation**

Print introduction letter, the DHS-390, Adult Services Application and the DHS-54A, Medical Needs form and mail to the client. The introduction letter allows the client 21 calendars days to return the documentation to the local office.

**Note:** The introduction letter does **not** serve as adequate notification if home help services are denied. The specialist must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination. (Emphasis added)

Adult Services Manual (ASM) 101, 12-1-13, addresses HHS payments:

### **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.

*Adult Services Manual (ASM) 101,  
12-1-2013, Page 1 of 5*

Adult Services Manual (ASM) 105, 12-1-13, addresses HHS eligibility requirements:

### **Requirements**

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

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### **Necessity For Service**

The adult services specialist is responsible for determining the necessity and level of need for home help services based on all of the following:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. 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 if assessed at a level 3 or greater.

**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

**Note:** If an individual uses adaptive equipment to assist with an ADL, and without the use of this equipment the person would require hands-on care, the individual must be ranked a level 3 or greater on the functional assessment. This individual would be eligible to receive home help services.

**Example:** Mr. Jones utilizes a transfer bench to get in and out of the bathtub, which allows him to bathe himself without the hands-on assistance of another. The adult services specialist must rank Mr. Jones a 3 or greater under the functional assessment. Mr. Jones would be eligible to receive home help services.

Assistive technology includes such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and hand held showers.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

*Adult Services Manual (ASM) 105,  
12-1-2013, Pages 1-4 of 4*

Adult Services Manual (ASM 120, 12-1-13), pages 1-4 of 5 addresses the adult services comprehensive assessment:

## INTRODUCTION

The DHS-324, Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on **all open independent living services cases**. ASCAP, the automated workload management system, provides the format for the comprehensive assessment and all information will be entered on the computer program.

## Requirements

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the client in his/her place of residence.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as necessary, but minimally at the six month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.
  - Use the DHS-27, Authorization to Release Information, when requesting client information from another agency.
  - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS cases, see SRM 131 Confidentiality.

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## Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the home help services 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 ranking 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 IADLs if the assessment determined 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.

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### **Time and Task**

The specialist will allocate time for each task assessed a rank of 3 or higher, based on interviews with the client and provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a **guide**. The RTS can be found in ASCAP under the Payment module, Time and Task screen. When hours exceed the RTS rationale **must** be provided.

An assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). **The specialist must assess each task according to the actual time required for its completion.**

**Example:** A client needs assistance with cutting up food. The specialist would only pay for the time required to cut the food and not the full amount of time allotted under the RTS for eating.

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.

**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.

**Example:** Client has special dietary needs and meals are prepared separately; client is incontinent of bowel and/or bladder and laundry is completed separately; client's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc.

*Adult Services Manual (ASM) 120, 12-1-13,  
Pages 1-5 of 7*

Certain services are not covered by HHS. ASM 101 provides a listing of the services not covered by HHS.

#### **Services not Covered by Home Help**

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

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.

- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

**Note:** The above list is not all inclusive.

*Adult Services Manual (ASM) 101, 12-1-13,  
Pages 3-4 of 5.*

The ASW testified that on ██████████, Appellant's physician submitted a new Medical Needs form based on Appellant's ██████████ office visit, but the physician did not certify that Appellant needed any assistance with at least one Activity of Daily Living (ADL's), as required by policy. The ASW indicated that she had been trying to get an updated Medical Needs from Appellant's physician for some time and had given Appellant and her physician ample opportunity to submit a completed form. The ██████████ Medical Needs form was the third one the ASW received from Appellant's physician. Based on the lack of a Medical Needs form certifying that Appellant needed hands on assistance with at least one ADL, the ASW indicated that on ██████████, she sent Appellant an Advance Negative Action Notice informing her that her HHS services were being terminated.

Appellant testified that she has been receiving HHS for over 10 years and that the ██████████ Medical Needs form was a mistake because the person who normally fills out the forms had quit. Appellant indicated that since the denial she has gone to see her doctor three times and finally received a correct Medical Needs form in ██████████, which was forwarded to the Department. Appellant indicated that it is not fair that she should be punished for a mistake made by her doctor's office. Appellant also indicated that it is not fair that she should have to reapply for HHS, and forfeit her HHS since the time of the denial, because of this mistake.

The Department's Adult Services Manager (ASM) testified that the case closure was correct and the Department was not willing to reassess Appellant based on the new Medical Needs form at this time. The ASM indicated that Appellant's physician submitted three Medical Needs forms and that none of them certified that Appellant had

a need for hands on assistance with at least one ADL. The ASM indicated that Appellant would need to reapply for HHS if she was interested in having the services resume.

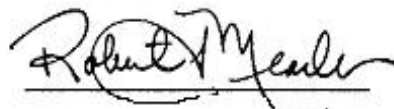
Before anyone can receive HHS, the Department must receive a Medical Needs form, signed by a physician, certifying that the person has a hands on need for assistance with at least one ADL. Here, even given ample opportunities, Appellant's doctor did not certify a need for assistance with ADL's, as required, on the Medical Needs form. While Appellant's physician has since provided a Medical Needs form certifying that Appellant has such a need, that form was received after the negative action that is the subject of this appeal was received. As such, that form cannot be used to hold that the decision the Department made back in April was incorrect. Accordingly, the termination of Appellant's HHS is upheld. If Appellant wishes to resume HHS, she will need to reapply for services. Appellant's argument that it is unfair to make her reapply is without merit because this ALJ does not have the authority to order any equitable relief. (See *Coffman v State Board of Examiners*, 331 Mich 52 (1951); *Herrick Dist Library v Library of Mich*, 293 Mich App 571, 574; 810 NW2d 110 (2011)).

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.



Robert J. Meade  
Administrative Law Judge  
for Nick Lyon, Acting Director  
Michigan Department of Community Health

cc:

[REDACTED]

RJM [REDACTED]

[REDACTED]  
Docket No. 14-007031 REH  
Decision and Order

Date Signed: [REDACTED]

Date Mailed: [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.