

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

**Docket No. 14-009150 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 ██████████. Appellant appeared on her own behalf. ██████████, Appellant's paid caregiver testified on the Appellant's behalf. ██████████ Appeals Review Officer, appeared on behalf of the Department of Community Health. ██████████, Adult Services Worker (ASW), from the ██████████ County DHS appeared as a witness for the Department. ██████████, Adult Services Supervisor was also present but did not testify.

**ISSUE**

Did the Department properly reduce 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 (██████████) who has been receiving HHS. (Testimony).
2. Appellant had been diagnosed with Lymphoma B cell, asthma, and with a tumor in her stomach. (Exhibit A, pp. 10, 12).
3. On ██████████, ASW ██████████ did a face-to-face home visit with the Appellant and her provider and completed a comprehensive reassessment of the Appellant's need for services. The ASW redetermined the tasks to be authorized for Appellant's HHS. (Exhibit A, pp. 10, 16 and testimony).
4. On ██████████, the Department issued an Advance Negative Action Notice to Appellant notifying her that her HHS would be reduced to a total monthly care cost of ██████████, effective ██████████. (Exhibit A, pp. 6-9 and testimony).

5. On ██████████, MAHS received Appellant's Request for Hearing. (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 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. ASM 101 states in part:

### **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.

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, pp. 1-2 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, teaching or encouraging (functional assessment rank 2). [ASM 101, p. 5 of 5].

ASM 120 states in part:

## 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 must 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. This form is primarily used for APS cases.

- Follow rules of confidentiality when home help cases have companion adult protective services cases; see SRM 131, Confidentiality.

\* \* \*

## **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 level 3 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 if assessed 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.

\* \* \*

### **Time and Task**

The specialist will allocate time for each task assessed a rank of 3 or greater, 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 adjoined 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, pp. 1-5 of 7, emphasis added].

The testimony and evidence presented at the hearing demonstrated that the ASW properly redetermined the Appellant's needs for home help services based on the information she was provided by the Appellant and her provider during the comprehensive reassessment. ASW ██████████ stated she met with the Appellant and her provider for a ████████-month reassessment on ██████████. The ASW determined at the time the Appellant was no longer being treated for cancer, and her need for services was very minimal. (Exhibit A, pp. 7, 10 and testimony). Thereafter, on ██████████ the Department issued an Advance Negative Action Notice to Appellant notifying her that her HHS would be reduced to a total monthly care cost of ██████████ effective August 12, 2014. (Exhibit A, pp. 6-9 and testimony).

The ASW stated on ██████████ when she arrived at the home for the reassessment she observed the Appellant jumping across the yard to move her sprinklers without any assistance. (Exhibit A, p. 10 and testimony). The ASW said when they did the Appellant's initial assessment in ██████████, Appellant was in the middle of her cancer treatments and she was very sick. However, on ██████████ when she did the reassessment the Appellant was doing much better.

During the reassessment the ASW determined the Appellant was able to dress herself at that time. Appellant was able to take her own medication at that time as well. The ASW stated she reduced the time authorized for housework, but still approved some time for housework as there were days that the Appellant was tired and needed assistance. The ASW also reduced the time for laundry and shopping due to the Appellant's improved condition. The ASW also determined that Appellant did not need assistance with meal prep and took that away altogether. (Exhibit A, p. 16 and testimony). When questioned by the Appellant how she could make a determination regarding her needs without talking to her doctor, ██████████ advised that it was her responsibility to make the determination based on her assessment, the observations she made during the assessment.

The Appellant declined to testify at the hearing. ██████████ her provider testified he was the Appellant's paid caregiver. ██████████ said they received letters from her doctors indicating that they have found some additional spots on her lungs just this past week. He said the Appellant still needs all of her assistance. ██████████ alleged that the ASW made a determination in only five minutes that the Appellant did not need as much assistance. He referenced a letter from Appellant's doctor dated ██████████ indicating the Appellant still needed assistance. ██████████ said because the Request for Hearing was not received by MAHS until ██████████ their benefits were cut and the check he was getting was cut. ██████████ said he still has to dress the Appellant and is still doing the same work, and he did not think it was fair for the ASW to make her determination in five minutes. On cross examination ██████████ said the Appellant just started getting radiation treatments for the spots they recently found on her lungs.

The Department presented credible evidence to show that at the time the Appellant's HHS was reduced, the information provided by Appellant and her provider supported the overall reduction in the Appellant's HHS. The policy quoted above dictates that the needed services are determined by the comprehensive assessment conducted by the adult services specialist. The preponderance of the evidence shows that the ASW properly determined the needed services based upon the information she had at the time of the reassessment. Accordingly, the Department's decision must be sustained. Appellant's provider has alleged that the Appellant has gotten worse since the reassessment and still needs the services that she was getting before the reduction. This change in her condition was not addressed at the ██████████ assessment that led to a reduction in her services. It may merit a new assessment, but has no bearing on the reassessment that was done on ██████████ or the reduction in services indicated in the Advance Negative Action Notice sent to the Appellant on ██████████

**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

*William D Bond*

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William D. Bond  
Administrative Law Judge  
for Nick Lyon, Director  
Michigan Department of Community Health

WDB/db

Date Signed: ██████████

Date Mailed:

cc: ██████████  
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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.