

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

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IN THE MATTER OF:

██████████

Appellant

Docket No. 14-011631 HHS

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 ██████████. Appellant appeared on her own behalf. ██████████, Appellant's caregiver, appeared as a witness. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW) appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's request for additional Home Help Services (HHS) hours?

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 diagnosed with end stage renal disease, hypertension, and diabetes. (Exhibit A, pp 6, 8; Testimony)
2. On or about ██████████, Appellant applied for HHS. (Exhibit A, p 7; Testimony)
3. As part of the application and assessment process, an Adult Services Worker (ASW) conducted a home visit with Appellant and her caregiver on ██████████. (Exhibit A, pp 14-15; Testimony)
4. At the time of the assessment, Appellant was living with her daughter-in-law, who is also her caregiver, two sons, and five children under the age of 18. (Exhibit A, p 14; Testimony)
5. Following the home visit, Appellant's application for HHS was granted. Appellant was to receive 34 hours and 11 minutes of HHS per month, with

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a total monthly care cost of \$██████████, retroactive to ██████████. Payments for Appellant's IADL's were prorated to reflect a shared hospital. (Exhibit A, pp 16-17; Testimony)

6. On ██████████, the Department sent Appellant a Services and Payment Approval Notice. (Exhibit A, pp 9-10)
7. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. In that request, Appellant's guardian stated that she wanted a hearing with respect to her HHS payment. (Exhibit 1)

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 120, 12-1-13), pages 1-6 of 7 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. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS 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 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 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 IADLs if the assessment determined 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.

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 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. Emphasis added

* * * *

*Adult Services Manual (ASM) 120, 12-1-13,
Pages 1-6 of 7*

The Department's ASW testified that she allocated 10 minutes per day, 6 days per week of HHS for assistance with bathing; 10 minutes per day, 7 days per week for dressing; 6 minutes per day, 7 days per week for transferring; 15 minutes per day, 1 day per week for mobility; 30 minutes, 1 day per week for laundry; 30 minutes, 1 day per week for shopping; 20 minutes per day, 7 days per week for meal preparation; and 30 minutes per day, 2 days per week for colonoscopy care. The Department's ASW testified that the times she allotted were based on the reasonable time schedule (RTS) used by the Department, her observations during the assessment, and what Appellant and her

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caregiver told her during the assessment. The Department's ASW also testified that Appellant's IADL's were prorated to reflect a shared household.

Appellant testified that her caregiver is in the home practically 24 hours per day and provides direct care to Appellant for at least 10 hours per day. Appellant indicated that her colonoscopy bag leaks and the caregiver spends a lot of time cleaning up after her. Appellant also mentioned that her right hand has recently become disabled and she had to have a portion of her foot amputated recently as well, but she understood that those changes occurred after the assessment in question and would not affect the outcome of the hearing.

Appellant's caregiver testified that she believes she should receive the maximum allowable hours under policy given all she does for Appellant. Appellant's caregiver indicated that what she does takes way longer than what she is being paid for. Appellant's caregiver indicated that laundry for Appellant has to be done every day because the colonoscopy bag leaks and that the leaking also leads to lots of cleaning around the house. Appellant's caregiver also indicated that meal preparation takes way longer than the time allotted because Appellant requires a special diet because of her diagnoses. Appellant's caregiver pointed out that Appellant's doctor provided a letter which indicates that Appellant needs at least 8 hours per day of direct care. (Exhibit B) Appellant's caregiver testified that while Appellant can brush her own teeth, she can only do that if Appellant's caregiver gets her toothbrush, puts toothpaste on it, and brings it to Appellant with a vessel of water.

In response, the Department's ASW indicated that she was told that the colonoscopy bag only needed to be changed every 3 days and that Appellant could empty the bag on her own; she was not told about the bag leaking. With regard to laundry, the Department's ASW indicated that per policy, the Department only pays for the time it takes to put laundry in, take it out, and fold it. With regard to housework, the Department's ASW indicated that the time allotted is only to cover the cleaning of Appellant's areas, not the entire house. The Department's ASW testified that Appellant should be having a new assessment in January, so she can bring up any recent changes at that time and ask for an increase in hours then.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of the evidence, that she requires more HHS than she was approved for. The Department's ASW properly calculated Appellant's HHS based on policy and the information provided by Appellant at their meeting. It appears that Appellant and her caregiver may not have told the ASW all of the help the caregiver was providing at the initial assessment, but the ASW can only base her findings on what she observes and what she was told. Based on that information, the original calculation was correct. However, it also appears that there have been changes since the assessment that may result in more HHS hours being approved for Appellant at her next assessment due to the amputation of part of her foot and her disability spreading to her right hand as well.

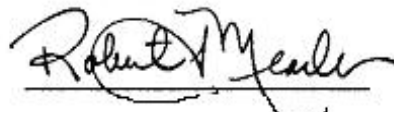
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DECISION AND ORDER

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 denied Appellant's request for additional HHS.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



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

cc:

[REDACTED]

RJM/ [REDACTED]

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 must 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.