

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

██████████,

**Docket No.: 14-016132-HHS**

**Case No.: ██████████**

**Appellant.**

\_\_\_\_\_ /

**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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified by conference telephone. ██████████ appeared as a witness on behalf of Appellant.

██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker appeared as a witness.

**ISSUE**

Did the Department properly prorate Appellant's IADLs for the Home Help Services (HHS) program?

**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 female beneficiary of the SSI and Medicaid programs. Prior to the negative action herein, Appellant had an HHS case totaling \$ ██████ per month. (Exhibit A. 31).
2. On ██████ the ASW conducted a redetermination of Appellant's HHS case by meeting with Appellant and her provider at Appellant's home. The Appellant's caregiver indicated that she does not assist Appellant with eating and removed eating from Appellant's case. The Department subsequently sent out a negative action notice removing eating, not at issue herein. (Exhibit A.22 & 23).

3. On ██████████ the ASW had a conversation with the provider regarding payments. During the conversation, the ASW inquired regarding the provider's address "...because I realized she was using the same address as the client...she said she was homeless..." The ASW indicated that she and her supervisor checked Bridges which indicated pursuant to a recent redetermination for FAP that Appellant uses the same address as Appellant. "It seemed suspicious and I then explained to her the policy regarding a shared household and a negative action letter was sent out." (Exhibit A.23,24; Testimony).
4. Appellant's provider is homeless, lives in different places, mostly her car. Appellant's Easter Seal case contains numerous documents indicating that the she is homeless and that her continuing goal is to find housing. Appellant allows the provider to use her address for her mail. Appellant and her provider do not 'purchase and prepare' together. (Claimant Exhibit I.12; Testimony).
5. On ██████████ the Department sent a negative action letter to Appellant stating that services will be prorated due to a shared household. (Exhibit A.2)
6. On ██████████ Appellant filed a hearing request. At the administrative hearing, Appellant stipulated that despite 4 negative action notices, she was only disputing the IADL proration. (Exhibit A.4; Testimony).
7. Appellant submitted documentary evidence including 12 documents from the provider's Easter Seals of Michigan, Inc. case (Case No. ██████████) containing a statement from Megan Patterson, Case Management Coordinator stating that the provider is and remains homeless. (Exhibit 1.1). Appellant also submitted an Easter Seals Michigan, Inc. Crisis Plan indicating in part that one of the goals is to "prevent continued homelessness" and an IPOS Meeting notes indicating a plan "to obtain stable housing..." (Appellant Exhibit 1.12)

### **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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

(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.

HHS are non-specialized personal care service activities provided under the independent living services program to persons who meet eligibility requirements.

*Adult Services Manual (ASM) 101, 12/1/13, p. 1.*

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 at least one activity of daily living (ADL).
- Appropriate Level of Care (LOC) status.

*ASM 105, 12/1/13, p. 1.*

### **Medicaid/Medical Aid (MA)**

Verify the client's Medicaid/Medical aid status.

The client may be eligible for MA under one of the following:

- All requirements for MA have been met, **or**
- MA deductible obligation has been met.

*ASM 105, 12/1/2013, p. 1.*

### **COMPREHENSIVE ASSESSMENT**

The DHS-324 Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on all 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 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.
- 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 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 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.

HHS payments may only be authorized for needs assessed at level 3 ranking or greater. An individual must be assessed with at least one ADL in order to be eligible to receive IADL Services if assessed at a level of 3 or greater.

ASM 120, 12/1/13, pp. 1-3.

**Necessity For Service**

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

- Client choice.
- A complete DHS-324 Adult Services Comprehensive Assessment. An individual must be assessed with at least one ADL in order to be eligible to receive HHS.
- Verification of the client's medical need by a Medicaid enrolled medical professional. The client is responsible for obtaining the medical certification of need.

ASM 105, 12/1/2013, pp. 3, 4.

## **HOME HELP SERVICE PROVIDERS**

### **Provider Selection**

The client has the right to choose the home help provider(s). As the employer of the provider, the client has the right to hire and fire providers to meet individual personal care service needs.

The determination of provider criteria is the responsibility of the adult services worker.

### **Provider Criteria**

Determine the provider's ability to meet the following minimum criteria in a face-to-face interview with the client **and** the provider:

#### Age

- The provider must be 18 years of age

#### Ability

- To follow instructions and HHS program procedures
- To perform the services required
- To handle emergencies

#### Physical Health

- The provider's health must be adequate to perform the needed services

#### Knowledge

- The provider must know when to seek assistance from appropriate services in the event of an emergency

#### Personal Qualities

- The provider must be dependable and able to meet job demands

#### Training

- The provider must be willing to participate in available training programs if necessary

HHS must be terminated if the provider fails to meet any of the provider criteria.

### **Provider Enrollment**

Home help providers **must** be enrolled in Bridges by a designee at the local county DHS office prior to authorizing payment.

- Made payable jointly to the client and the provider.

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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, 5-1-2012,*  
*Pages 1-5 of 5*

Here, the Department contends that the proration is supported by the following evidence: Appellant's provider has a state ID with Appellant's address on it. In addition, the Department argues that Appellant's provider uses Appellant's address for mail, including her FAP case.

Appellant's provider contends that she was required to have a mailing address for DHS and DCH and that Appellant allows her to use her address, and has allowed her for years, and has been her provider during this time. Appellant states that she is, and has been homeless, staying where she can, and often sleeping in her car. The provider was detailed in her Testimony with regards to shopping for food separately, keeping a cooler in her car for certain foods, and the type of food she purchases depending on the season and preparation requirements.

In addition, Appellant submitted 12 pages of documentary evidence from the provider's case with Easter Seals of Michigan repeatedly indicating that the provider is homeless, and repeatedly indicating the goal of finding stable housing as part of her treatment plan. (Appellant Exhibit I.12). Moreover, the Department presented no evidence that Appellant and her provider 'purchase and prepare' together.

After a careful review of the substantial and credible evidence of record, this ALJ finds that the provider's evidence sufficiently rebuts the Department's position that Appellant and her provider live together. The provider offered an explanation-that she is required to have a mailing address, that Appellant allows her to receive mail at her address, and, that she has had the same mailing address for years. The Department presented no evidence that the FAP case is based on a joint household. For these reasons, and for the reasons stated above, Appellant has sufficiently rebutted the Department's position

that Appellant and her provider live together, and thus, the proration application herein cannot be upheld based on the evidence.

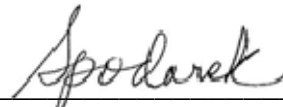
It is noted that this Decision and Order does not bar the Department from taking an action in the future regarding proration based on a shared household should the Department obtain evidence to support a joint household. However, as the case stands, Appellant has rebutted the Department's evidence by the preponderance of evidence standard based on the available evidence.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the proration of Appellant's IADLs cannot be upheld based on the evidence.

**IT IS THEREFORE ORDERED** that:

The Department's decision is REVERSED. The Department is ordered to initiate the reinstatement Appellant's IADLs at the rate approved prior to the proration calculation, and issue any supplemental benefits to Appellant to which she may be entitled, if eligibility otherwise exists.



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Janice Spodarek  
Administrative Law Judge  
for Director, Nick Lyon  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

cc: [REDACTED]

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**Decision & Order**

**\*\*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.