

**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. 2014-11360 HHS

██████████,

██████████

██████████

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.*, and upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████ appeared and testified on Appellant's behalf. Appellant also testified on his own behalf. ██████████ ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), 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 Medicaid beneficiary who has been diagnosed with arthritis and asthma. (Respondent's Exhibit A, page 7).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 6).
3. On ██████████ ASW ██████████ conducted an assessment in Appellant's home. Both Appellant and his representative were present. (Respondent's Exhibit A, page 12).
4. During that assessment, ASW ██████████ asked Appellant about the tasks covered by HHS and Appellant only reported that he needed assistance with housework. (Respondent's Exhibit A, page 12; Testimony of ASW ██████████).

5. The task of light housework is identified as an Instrumental Activities of Daily Living (IADL) by the Department. (Adult Services Manual 120 (5-1-2013) (hereinafter “ASM 120”), page 2 of 7).
6. Appellant also reported that he could complete all other personal care tasks independently, but that he sometimes has pain and only manages the tasks slowly. (Respondent’s Exhibit A, page 12; Testimony of ASW ██████████).
7. On ██████████, the Department sent written notice to Appellant indicating that his application for HHS was being denied as he did not require any hands-on assistance with any Activity of Daily Living (ADL). (Respondent’s Exhibit A, pages 6, 8).
8. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Respondent’s Exhibit A, pages 4-5).

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 (5-1-2013) (hereinafter “ASM 101”) and ASM 120 addressed the issues of what services are included in Home Help Services and how such services are assessed.

For example, ASM 101 provided:

Home Help Payment Services

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.
- Housework.

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. 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 1-2 of 5

Moreover, ASM 120 states:

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

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 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 IADL's if the assessment determines a need at a level 3 or greater.

██████████
Docket No. 2014-11360 HHS
Decision and Order

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.

ASM 120, pages 2-3 of 7

As described in the above policy, an individual is only eligible to receive HHS in general or with any IADLs in particular if he or she also has a need for assistance with at least one ADL at a level 3 or greater.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive HHS as he requested.

Appellant and his representative bear the burden of proving by a preponderance of the evidence that the Department erred in making that decision. Moreover, this Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time.

Here, the Department's decision was based on information obtained directly from Appellant. According to ASW ██████████ notes completed at the time of the assessment and testimony during the hearing itself, Appellant only reported that he needed assistance with housework and he specifically stated that he could complete all his ADLs independently, albeit slowly.

In response, Appellant and her representative testified that, in addition to assistance with IADLs such as housework, Appellant also sometimes needs assistance with the ADLs of bathing and dressing due to his pain. They also testified that they reported such assistance to ASW ██████████.

However, this Administrative Law Judge finds ASW ██████████ notes and testimony regarding what was reported regarding bathing and dressing to be more credible. The notes were made at the same time of the assessment and, given that Appellant also testified that his pain levels vary across time and that he does not need assistance with ADLs at all times, they offer a more accurate and contemporaneous account of the assessment. Moreover, ASW ██████████ notes and testimony are more consistent with other tasks Appellant can undisputedly perform independently, such as transferring, toileting and grooming.

Appellant did note that he uses a cane for mobility. However, as provided in Adult Services Manual 121 (5-1-2013) (hereinafter "ASM 121") a need for assistance with mobility would only rise to a level 3 on that basis if the applicant needs physical assistance, the use of a walker, or the use of a pronged cane. (ASM 121, page 3 of 4; Respondent's Exhibit A, page 30). Here, it is undisputed that, at most, Appellant only requires the use of a straight cane.

Docket No. 2014-11360 HHS
Decision and Order

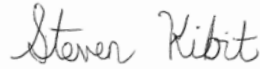
Accordingly, Appellant and his representative have failed to meet their burden of proving that the Department erred. The Department properly found that Appellant had no need for physical assistance with any ADLs and its decision to deny services on that basis must be affirmed.

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**.



Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/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.