

**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. 2014-11447 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 ██████████ ██████████ ██████████, Appellant's son, appeared and testified on Appellant's behalf. Appellant and his daughter were also present, but did not testify. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, from ██████████ County DHS testified as witnesses for the Department.

ISSUE

Did the Department properly decide to 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 diagnosed with legal blindness; hypertension; diabetes mellitus type 2; and chronic lumbar radiculopathy. (Respondent's Exhibit A, pages 21, 25).
2. Appellant has been receiving ██████ hours and ██████ minutes of HHS per month, with a total monthly care cost of ██████████. Specifically, Appellant was authorized for assistance with bathing; grooming; toileting; taking medications; housework; laundry; shopping; and meal preparation. (Respondent's Exhibit A, page 29).
3. On ██████████, ASW ██████████ conducted an in-home annual reassessment of Appellant's services. Both Appellant and his representative/care provider were present. (Respondent's Exhibit A, pages 26-27).

¹ Appellant's case was consolidated with an HHS case involving his daughter, 2013-69113 HHS, for purposes of the hearing.

██████████
Docket No. 2014-11447 HHS
Decision and Order

4. During that reassessment, Appellant's provider reported that Appellant's wife helps her daughter with bathing, washing her hair, and toileting. (Respondent's Exhibit A, pages 26-27; Testimony of ASW ██████████).
5. ASW ██████████ then informed Appellant and Appellant's representative that Appellant could no longer receive HHS if his wife is able and available to provide care. (Testimony of ASW ██████████).
6. In response, Appellant's representative asserted that Appellant's wife is disabled and cannot provide the necessary care for Appellant. (Testimony of ASW ██████████; Testimony of Appellant's representative).
7. Accordingly, Appellant was given an opportunity to provide a DHS-54A Medical Needs Form documenting his wife's disabilities and inability to care for Appellant. (Respondent's Exhibit A, pages 26-27; Testimony of ASW ██████████).
8. On ██████████, ASW ██████████ received a medical needs form regarding Appellant's wife. (Respondent's Exhibit A, pages 24, 27).
9. In that form, the doctor indicated that Appellant's wife has been diagnosed with lower back pain and depression. (Respondent's Exhibit A, page 27).
10. The doctor also certified that Appellant's wife only has a medical need for assistance with the tasks of shopping, laundry, and housework. (Respondent's Exhibit A, page 27).
11. Given that medical needs form, ASW ██████████ found that Appellant's HHS should be reduced as Appellant's wife could assist him with most of his care needs. (Respondent's Exhibit A, page 27; Testimony of ASW ██████████).
12. ASW ██████████ specifically decided to remove assistance with bathing; dressing; toileting; taking medication; and meal preparation. After the reduction was implemented, Appellant would receive ██████████ hours and ██████████ minutes of HHS per month, with a total monthly care cost of ██████████. (Respondent's Exhibit A, pages 27-28).
13. On ██████████, the Department sent Appellant written notice that his HHS would be reduced to ██████████ on ██████████ because his wife is a responsible relative able and available to provide the other care he needs. (Respondent's Exhibit A, pages 7-9).
14. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent's Exhibit A, page 6).

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.

Here, the Department decided to reduce Appellant's HHS on the basis that Appellant's wife is a responsible relative able and available to provide most of the care he needs.

Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") addressed responsible relatives at the time of the action in this case:

Responsible Relatives

Activities of daily living may be approved when the responsible relative is **unavailable** or **unable** to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. **Unable** means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented/verified by a medical professional on the DHS-54A, Medical Needs form.

Do **not** approve shopping, laundry, or light housecleaning, when a responsible relative of the client resides in the home, **unless** they are unavailable or unable to provide these services. Document findings in the general narrative in ASCAP.

Example: Mrs. Smith is in need of home help services. Her spouse is employed and is out of the home Monday thru Friday from 7a.m. to 7p.m. The specialist would not approve hours for shopping, laundry or house cleaning as Mr. Smith is responsible for these tasks.

Example: Mrs. Jones is in need of home help services. Her spouse's employment takes him out of town Monday thru Saturday. The specialist may approve hours for shopping, laundry or house cleaning.

ASM 120, page 5 of 5

Here, the ASW properly considered the availability and ability of the Appellant's wife to provide care for Appellant. The Adult Services Glossary defines a responsible relative as a person's spouse or a parent of an unmarried child under age 18. (Adult Services Glossary (ASG) Glossary 5-1-2013, page 7 of 9). Appellant's wife therefore meets the definition of a responsible relative and, under Department policy, HHS for the Appellant could only be authorized for those services or times which the responsible relative is unavailable or unable to provide.

Appellant's representative testified that Appellant's wife is unable to provide care for him at all because of her medical conditions. However, as described above, ASM 120 requires that Appellant's wife's disabilities be documented or verified by a medical professional on a DHS-54A Medical Needs form and, in this case, that medical professional only indicated that Appellant's wife needs assistance with the tasks of shopping, laundry and housework. Accordingly, that form also suggests that Appellant's wife is able to assist him with bathing, dressing, toileting, taking medication and meal preparation, and that the removal of those tasks is proper. Appellant's representative failed to provide any other evidence in support of his testimony.

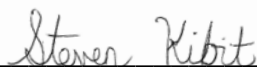
Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in reducing his HHS. Here, given the above evidence and the information available to the Department at the time it made its decision, Appellant failed to meet his burden of proof and the Department's decision 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 reduced Appellant's 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]

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Docket No. 2014-11447 HHS
Decision and Order

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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.