

**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. 2014-12632HHS

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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on her own behalf. ██████████, Appellant's provider appeared as a witness.

██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Supervisor, and ██████████, Adult Services Worker (ASW) appeared as witnesses for the Department.

**ISSUE**

Did the Department properly deny Appellant's request for additional Home Help Services hours (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 ██████ year-old female Medicaid beneficiary, born ██████████, who has been diagnosed with lupus.
2. On or about ██████████, Appellant applied for HHS.
3. As part of the application and assessment process, an Adult Services Worker (ASW) conducted a home visit with Appellant and her caregiver on ██████████.
4. Appellant lives with two minor children, and an adult son who is not her provider.
5. The Department rated the following ADLs and IADLs at a 3 rank: bathing, dressing, mobility, housework, laundry, shopping for food/meds, and meal preparation. (Exhibit A.14)

6. Following the home visit, Appellant's application for HHS was granted. Appellant's IADL hours were pro-rated as required under policy. Appellant was approved for 24.41 hours per month, with a total monthly care cost of \$ ██████████.
7. On ██████████, the Department sent Appellant a Services and Payment Approval Notice.
8. On ██████████, Appellant's Request for Hearing was received by the Michigan Administrative Hearing System. In that request, Appellant disputed the thoroughness of the assessment. At hearing Appellant stated that she wanted more hours for HHS than approved by the Department.

### **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) 101, 11-1-11, addresses HHS payments:

#### **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.

*Adult Services Manual (ASM) 101,  
11-1-2011, Page 1 of 4.*

Adult Services Manual (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

## **Requirements**

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

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## **Necessity For Service**

The adult services specialist is responsible for determining the necessity and level of need for home help services based on:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. 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.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

*Adult Services Manual (ASM) 105,  
11-1-2011, Pages 1-3 of 3*

Adult Services Manual (ASM 120, 5-1-2012), pages 1-4 of 5 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; see RFF 1555. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS cases, see SRM 131 Confidentiality.

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## **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.

**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 IADLs if the assessment determined a need 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.

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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*

In this case, Appellant argues that the Department failed to take into account information on a prior DHS 54-A. Appellant also argues that the assessment was poorly conducted and requests more hours.

As to Appellant's request for more hours, the Department actually did approve Appellant more hours than allotted. Under the pro-ration requirements discussed in policy ASM 120 (cited above), the Department was required to reduce the allotment. The calculation takes into account a 50% reduction due to Appellant's adult son is living in the home with regard to the IADLs.

**Docket No. 2014-12632 HHS**  
**Decision and Order**

As to the remainder of Appellant's concerns, there was much testimony at the administrative hearing regarding a prior DHS-54A completed in August. This was not part of the evidentiary packet.. Appellant argued that not all her medical condition(s) were taken into account as the subsequent 54-A only lists "lupus" as a medical impairment. However, this ALJ finds that the prior 54-A, and its contents, are not relevant for the following two reasons. First, the subsequent 54-A indicates that Appellant has needs for personal care services for every activity listed. That is, Appellant's physician circled every personal care need option identified on the form. Second, under ASM 101, while the needs must be certified by a medical professional:

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. ASM 101, p 2.

Thus, the ASW can give less services (albeit not more) than the medical professional indicates is needed. Deference is given to the ASW.

As to the specific findings found in the Department's evidence, this ALJ finds that they are supported by substantial evidence and credible testimony in this case.

Regarding Appellant's complaints as to the conduct of a state employee, ALJs have no jurisdiction of the conduct or professionalism of an employee.

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.

**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 processed Appellant's HHS application.

**IT IS THEREFORE ORDERED THAT:**

The Department's calculation and allotment of the HHS hours was correct and is hereby UPHELD.

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Janice Spodarek  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

  
cc:



Date Signed: February 14, 2014

Date Mailed: February 14, 2014

**\*\*\* 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.