

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

P.O. Box 30763, Lansing, MI 48909  
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**IN THE MATTER OF:**

**Docket No. 2014-19211 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 appeared and testified on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, testified as witnesses for the Department.

**ISSUE**

Did the Department properly terminate 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 by a doctor with right hip arthritis. Appellant also reports having high blood pressure; diabetes; right knee arthritis; depression; arthritis in her hands; migraines; back pain; and left hip arthritis. (Respondent's Exhibit A, page 12).
2. Appellant has been receiving HHS through the Department and was most recently authorized for █ hours and █ minutes of HHS per month, with a total monthly care cost of ██████████. (Respondent's Exhibit A, pages 11, 14).
3. Specifically, Appellant was authorized for assistance with housework, laundry, and shopping. (Respondent's Exhibit A, pages 14).
4. The tasks of housework, laundry, and shopping are all identified as Instrumental Activities of Daily Living (IADLs) by the Department. (Adult Services Manual 101 (5-1-2013) (hereinafter "ASM 101"), page 2 of 5).

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5. Appellant was also ranked a “3” with respect to the task of grooming, which the Department identifies as an Activity of Daily Living (ADL), but she did not receive any assistance with that task from her provider and therefore was not authorized any HHS for it either. (Testimony of [REDACTED] ASM 101, page 2 of 5).
6. On [REDACTED], ASW [REDACTED] conducted a reassessment with Appellant and Appellant’s provider. (Respondent’s Exhibit A, page 10).
7. During that reassessment, Appellant ambulated independently and without the use of any adaptive equipment. (Respondent’s Exhibit A, page 10; Testimony of Appellant; Testimony of ASW [REDACTED]).
8. Appellant also reported having a straight cane, but not using it. (Respondent’s Exhibit A, page 10; Testimony of Appellant; Testimony of ASW [REDACTED]).
9. Appellant further requested that her assistance with IADLs continue, but she did not identify a need for assistance with any ADLs and, at most, stated that her podiatrist cuts her toenails. (Respondent’s Exhibit A, page 10; Testimony of Appellant; Testimony of ASW [REDACTED]).
10. On [REDACTED], the Department issued an Advance Negative Action Notice to Appellant indicating that her HHS would be terminated effective [REDACTED] because she did not need any hands-on assistance with any ADLs, as required by policy. (Respondent’s Exhibit A, pages 5-9).
11. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received a Request for Hearing in this matter. (Respondent’s Exhibit A, page 4).

**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.

ASM 101 and Adult Services Manual 120 (5-1-2013) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed.

For example, ASM 101 provides:

### **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  
(Emphasis added)*

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.*

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**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.

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  
(Emphasis added)*

As described in the above policy, an individual is only eligible to receive HHS in general or for assistance with an IADL specifically if he or she has a need for assistance with at least one ADL at a level 3 or greater, *i.e.* some hands-on physical assistance.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive any HHS. That decision was based on information obtained directly from Appellant and her provider during the reassessment. As written in her notes and testified to by ASW [REDACTED], Appellant only reported a need for assistance with the same IADLs she had been receiving assistance with and did not request any assistance with ADLs. ASW [REDACTED] also observed Appellant ambulating independently and without any adaptive equipment.

In response, Appellant testified that, in addition to her need for assistance with IADLs, she is also limited in the tasks of mobility and grooming. According to Appellant, while she was not using her cane on the day of the reassessment and usually ambulates independently, she is limited in her mobility and sometimes uses a straight cane. Appellant also testified that her doctor has prohibited her from cutting her own toenails, due to her arthritis, and therefore Appellant's podiatrist must complete that task for Appellant.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in terminating her HHS. Here, Appellant has failed to meet that burden of proof and the Department's decision must be affirmed.

With respect to ADLs, the only disputed tasks are mobility and grooming. However, with respect to mobility, the Department's findings are clearly proper given that it is undisputed that Appellant both ambulated independently and without the use of adaptive equipment, during the reassessment while also reporting that, while she has a

straight cane, she does not use it. Additionally, even if Appellant's later testimony that she does use a straight cane occasionally is accepted, that need is insufficient to support a ranking of "3" in mobility. As described in Adult Services Manual 121 (5-1-2013), page 4 of 6, a ranking of "3" in mobility requires that a client would need physical assistance without the use of a walker or pronged cane:

**Mobility** - Walking or moving around inside the living area, changing locations in a room, assistance with stairs or maneuvering around pets, or obstacles including uneven floors.

- 1 No assistance required even though the client may experience some difficulty or discomfort. Completion of the task poses no risk to safety.
- 2 Client is able to move independently with only reminding or encouragement. For example, needs reminding to lock a brace, unlock a wheelchair or to use a cane.
- 3 Minimal hands-on assistance required for specific maneuvers with a wheelchair, negotiating stairs or moving on certain surfaces. Without the use of a walker or pronged cane, client would need physical assistance.
- 4 Requires hands-on assistance from another person with most aspects of mobility. Would be at risk if unassisted.
- 5 Totally dependent on other for all mobility. Must be carried, lifted or pushed in a wheelchair or gurney at all times.

Moreover, with respect to grooming, while it is undisputed that Appellant's podiatrist cuts Appellant's toenails, there is no evidence of any medical need in that area, especially given all the other personal care tasks that Appellant can perform on her own. The mere fact that Appellant's podiatrist assists with grooming is insufficient to support a ranking of "3" in that task where it appears that Appellant is physically capable of grooming herself and only chooses to have her doctor assist.

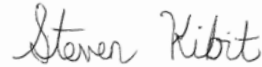
Accordingly, Appellant failed to meet her burden of proof and the Department's decision must be sustained.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly terminated Appellant's HHS.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.



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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.