

**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. 2014-20524 HHS

██████████

██████████

██████████

Appellant.

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 C.F.R. § 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████ from ██████████. ██████████ appeared on behalf of the Appellant. Appellant testified on his own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████ Adult Services Supervisor, 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 (DOB ██████████) Medicaid beneficiary. (Testimony).
2. Appellant has been diagnosed with primary open angle glaucoma – advanced in both eyes rendering him legally blind, hypertension, and sleep apnea. (Exhibit A, p. 16 and Exhibit B).
3. On ██████████, the Appellant's eye doctor completed a DHS 54A Medical Needs form indicating the Appellant only needed assistance with mobility, i.e., van transportation due to being legally blind. (Exhibit B).
4. On ██████████ the Appellant's ASW, did a home visit with the Appellant and did a face-to-face assessment to determine Appellant's eligibility for HHS. The ASW determined the Appellant did not need hands on assistance with any of his ADLs. (Exhibit A, p. 9 and testimony).

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5. On [REDACTED], the ASW issued an Advance Negative Action Notice to Appellant informing him that his request for HHS would be denied because he did not need hands on assistance with any of his ADLs only IADLs. (Exhibit A, pp. 7-8 and testimony).
6. On [REDACTED], MAHS received Appellant's Request for Hearing. (Exhibit A, p. 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.

Adult Services Manual 101 (12-1-2013) (hereinafter "ASM 101") and Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed:

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.

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.

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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.
- Light housecleaning.

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 or her daughter agrees to assist her at no charge. 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 1-3 of 5, emphasis added].

* * *

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2). [ASM 101, page 5 of 5].

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.

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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 or her daughter agrees to assist her at no charge. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater. [ASM 120, pages 2-3 of 7, emphasis added].

Adult Services Manual 121 (5-1-2013) (hereinafter "ASM 121") sets forth the Functional Assessment Definitions and ranks for the HHS program. ASM 121 provides the following definition for "Mobility":

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. [p. 4 of 6].

Adult Services Supervisor Ms. ██████████ stated that on ██████████, ██████████ one of the Adult Services Workers (ASW) she supervises did a home visit with the Appellant and conducted a comprehensive assessment to determine Appellant's eligibility for HHS. Ms. ██████████ stated the ASW determined the Appellant did not need assistance with any of his ADLs. According to Ms. ██████████ notes admitted during the hearing, the Appellant indicated he needed help with toenail

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care. However, Ms. ██████████ observed that during the home visit the Appellant was able to look through envelopes for letters, etc., and determined he was able to see well enough to do his toenails. The ASW noted the Appellant's doctor did not certify a need for grooming on the medical needs form. (See Exhibit B). The ASW's notes show that the Appellant indicated he only needed hands on assistance with tasks such as housework, shopping, meal preparation, and laundry, i.e., his IADLs. (See Exhibit A, pp. 13-15).

Ms. S ██████████ stated the Appellant's doctor indicated on the medical needs form submitted to DHS that the Appellant only needed assistance with mobility, but Ms. ██████████ observed during her home visit that the Appellant was able to walk without difficulty and did not use an assistive device. The doctor noted on the medical needs form that the Appellant was legally blind, he needed van transportation, but he was ambulatory. (See Exhibit B). Accordingly, the ASW determined the Appellant did not meet the criteria for HHS as he did not need hands on assistance with any of his ADLs. (Exhibit A, p. 14).

Ms. ██████████ stated on ██████████ an Advance Negative Action Notice was sent to Appellant informing him that his request for HHS would be denied because he did not need hands on assistance with any of his ADLs only IADLs. (See Exhibit A, pp. 7-12). The Adult Services Supervisor referenced the policy on eligibility for HHS, (see ASM 120, page 3 of 7), and stated that an HHS case can only be opened if the individual needs assistance with at least one activity of daily living.

During the hearing, the Appellant indicated he couldn't see well and did not understand why he wasn't able to get any help. Appellant indicated he has had a number of surgeries on his eyes and will have another one on ██████████. He indicated he has had retinal detachments and receives injections in his eyes and takes other medications which help him to see. Appellant also indicated he uses a CPAP machine and needs supervision as the distilled water used in the machine can cause him to choke.

When asked by the Department's representative, the Appellant stated he could feed himself and toilet himself. He claimed he needed some help with bathing, but could wash a little. The Appellant stated he needed help getting in and out of the bathtub. However, he advised the ASW during the assessment that he used grab bars to assist with getting in and out of the tub. Appellant stated he has a barber that cuts his hair and shaves him. He indicated he could dress himself, but someone else picks out his clothes. Appellant also indicated he could move about his apartment, but sometimes might have trouble with his eyesight.

The preponderance of reliable evidence in this case demonstrates that at the time of the ASW's assessment, the Appellant did not identify a need for hands on assistance with any of his ADLs. According to the policy quoted above, an individual is only eligible to receive HHS if he has a need for assistance with an ADL at a level 3 or greater. See ASM 101, page 2 of 5; ASM 120, page 3 of 7. Appellant demonstrated no such need at

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the time of his assessment and was properly found to be ineligible to receive any type of HHS. Furthermore, the need for hands on assistance with at least one ADL was not certified by a Medicaid enrolled medical professional as required by policy (only the need for van transportation). Accordingly, 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 denied Appellant's request for HHS.

IT IS THEREFORE ORDERED THAT:

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

William D Bond

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/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.