

**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.** 2014-22564 HHS

██████████

██████████

██████████

Appellant.

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**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.

**ISSUES**

Did the Department properly deny Appellant's request for additional 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 proximal femoral focal deficiency (PFFD); scoliosis; right foot amputation below the knee; and depression. (Respondent's Exhibit A, pages 6, 14).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 13).
3. As part of the application process, Appellant submitted a medical needs form signed by her doctor on ██████████ (Respondent's Exhibit A, page 18).

██████████  
**Docket No. 2014-22564 HHS**  
**Decision and Order**

4. In that form, Appellant's doctor certified that Appellant has a medical need for assistance with bathing, mobility, meal preparation, shopping, laundry, and housework. (Respondent's Exhibit A, page 18).
5. On ██████████ ASW ██████████ I conducted an assessment in Appellant's home with Appellant and Appellant's provider. (Respondent's Exhibit A, page 16).
6. During that assessment, Appellant reported that she needed assistance with the same tasks identified on the medical needs form. (Respondent's Exhibit A, page 16; Testimony of Appellant).
7. On ██████████, the Department sent Appellant a written Services and Payment Approval Notice providing that, effective ██████████ she was approved for HHS in the amount of ██████ hours and ██████ minutes per month, with a total monthly care cost of ██████. (Respondent's Exhibit A, pages 7, 17).
8. Specifically, Appellant was authorized for assistance with bathing, ██████ minutes a day, ██████ days a week (██████ per month); mobility, ██████ minutes a day, ██████ days a week (██████ per month); housework, ██████ minutes per day, ██████ days per week (██████ per month); laundry, ██████ minutes a day, ██████ day a week (██████6 per month); shopping, ██████ minutes per day, ██████ day per week (██████ per month); and meal preparation, ██████ minutes per day, ██████ days per week (██████ per month). (Respondent's Exhibit A, page 17).
9. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant regarding the amount of her HHS. (Respondent's Exhibit A, pages 4-7).
10. In that request and in her testimony during the hearing, Appellant stated that the amount of hours approved did not allow her provider enough time to assist her with things like bathing, shopping, transportation to medical appointments, taking care of Appellant's children, and meal preparation. (Respondent's Exhibit A, pages 4-7; Testimony of Appellant).
11. Appellant also testified that her provider works an average of ██████ to ██████ hours per week, and that the provider is sometimes there over ██████ hours a week. (Testimony of Appellant).

**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.

**Docket No. 2014-22564 HHS**  
**Decision and Order**

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. 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.

**Docket No. 2014-22564 HHS  
Decision and Order**

- 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 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.

**Note:** If an individual uses adaptive equipment to assist with an ADL, and without the use this equipment the person would require hands-on care, the individual must be ranked a level 3 or greater on the functional assessment. This individual would be eligible to receive home help services.

**Example:** Mr. Jones utilizes a transfer bench to get in and out of the bathtub, which allows him to bathe himself without the hands-on assistance of another. The adult services specialist must rank Mr. Jones a 3 or greater under the functional assessment. Mr. Jones would be eligible to receive home help services.

Assistive technology would include such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and handheld showers.

### **Expanded Home Help Services (EHHS)**

Expanded home help services can be authorized for individuals who have severe functional limitations which require such extensive care that the service cost must be approved by the adult services supervisor/local office designee and/or the Department of Community Health.

### **Complex Care**

Complex care refers to conditions requiring intervention with special techniques and/or knowledge. These complex care tasks are performed on clients whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating or feeding assistance.
- Catheters or leg bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Dialysis (In-home).
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

\* \* \*

### **Services not Covered by Home Help**

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

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping). A responsible relative is defined as an individual's spouse or a parent of an unmarried child under age 18.

**Docket No. 2014-22564 HHS**  
**Decision and Order**

- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

**Note:** The above list is not all inclusive.

*ASM 101, pages 1-3, 5 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.

**Docket No. 2014-22564 HHS  
Decision and Order**

- 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.

**Docket No. 2014-22564 HHS**  
**Decision and Order**

**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.

**Note:** If an individual uses adaptive equipment to assist with an ADL, and without the use of this equipment the person would require hands-on care, the individual must be ranked a level 3 or greater on the functional assessment. This individual would be eligible to receive home help services.

**Example:** Mr. Jones utilizes a transfer bench to get in and out of the bathtub, which allows him to bathe himself without the hands-on assistance of another. The adult services specialist must rank Mr. Jones a 3 or greater under the functional assessment. Mr. Jones would be eligible to receive home help services.

Assistive technology would include such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and handheld showers.

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.

### **Complex Care**

Complex care refers to conditions requiring intervention with special techniques and/or knowledge. These complex care tasks are performed on clients whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating or feeding assistance.
- Catheters or leg bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Dialysis (In-home).
- Wound care.

**Docket No. 2014-22564 HHS**  
**Decision and Order**

- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

### **Time and Task**

The specialist will allocate time for each task assessed a rank of 3 or greater, 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, a rationale **must** be provided.

An assessment of need, at a ranking of 3 or greater, 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 (IADL) 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

██████████  
**Docket No. 2014-22564 HHS**  
**Decision and Order**

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 adjoined 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.

*ASM 120, pages 2-6 of 7*

Here, while the Department determined that HHS should be authorized for Appellant, Appellant remains dissatisfied with the amount of services and argues that additional HHS should also have been approved.

Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in making its decision.

For the reasons discussed below, this Administrative Law Judge finds that Appellant has not met her burden of proof and the Department's actions must therefore be affirmed.

Appellant does not dispute the specific tasks she was approved for assistance with, but does argue that she needs significantly more time. According to Appellant, her provider works an average of █ to █ hours per week and the amount of hours approved did not allow her provider enough time to assist her with things like bathing, shopping, transporting Appellant to medical appointments, taking care of Appellant's children, and preparing meals.

However, while Appellant generally testified about the need for more time, she almost completely failed to explain why she needs more time. Instead, Appellant just broadly stated that she needs more assistance without providing any details. That lack of detail is particularly important in this case as some of the assistance Appellant is requesting is clearly not covered by HHS, including transportation to medical appointments and caring for Appellant's children. Moreover, while Appellant did specifically testify that she needs assistance with bathing every day, and not just the █ days a week she was authorized for, this Administrative Law Judge finds ASW █ testimony and notes

**Docket No. 2014-22564 HHS**  
**Decision and Order**

to be credible as to what was reported during the home visit regarding Appellant's needs.

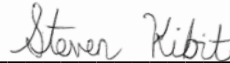
Given that credibility determination, in addition to the lack of details or support for Appellant's broad testimony, this Administrative Law Judge finds that Appellant has failed to meet her burden of proving that the Department erred in failing to authorize more HHS. Accordingly, the Department's decision must be affirmed.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that, the Department both properly denied Appellant's request for additional HHS.

**IT IS THEREFORE ORDERED THAT:**

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



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Steven J. 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.