

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. 2014-26428 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 mother, appeared and testified on Appellant's behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for Home Help Services?

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 Bipolar disorder; an arrhythmia; morbid obesity; hypertension; congestive heart failure; and diabetes mellitus type 2. (Respondent's Exhibit A, pages 6a, 8).
2. On ██████████, Appellant was referred for Home Help Services (HHS). (Respondent's Exhibit A, page 7).
3. As part of the application process, Appellant submitted a medical needs form signed by his doctor on ██████████. (Respondent's Exhibit A, page 6a).

4. In that form, Appellant's doctor only certified that Appellant has a medical need for assistance with the tasks of taking medication, meal preparation, and laundry. (Respondent's Exhibit A, page 6a).
5. On ██████████ ASW ██████████ conducted an assessment in Appellant's home. Both Appellant and his representative were present. (Respondent's Exhibit A, pages 13-14).
6. During that assessment, the ASW asked Appellant about the tasks covered by HHS and Appellant reported that he needed reminders to take his medications and assistance with transportation, laundry, meal preparation, housework, and shopping. (Respondent's Exhibit A, pages 13-14).
7. Appellant also reported that he could dress and groom himself, but that he does get his toenails clipped by his doctor. (Respondent's Exhibit A, pages 13-14).
8. Appellant further reported that he can bathe himself, but sometimes needs to be reminded to do so. (Respondent's Exhibit A, pages 13-14).
9. ASW ██████████ also observed Appellant walking and transferring without any assistance. (Respondent's Exhibit A, pages 13-14).
10. On ██████████, the Department sent written notice to Appellant indicating that his application for HHS was being denied as he did not require any hands-on assistance with any Activity of Daily Living (ADL). (Respondent's Exhibit A, pages 9-12).
11. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant. (Respondent's Exhibit A, pages 4-6).

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.

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.
- 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.

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.

* * *

Services not Covered by Home Help

- 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.
- 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.
- 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 if assessed at a level 3 or greater.

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 [sic] 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 includes such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and hand held 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.

ASM 120, pages 2-4 of 7

As described in the above policy, an individual is only eligible to receive HHS in general or with any IADLs in particular if he or she also has a need for assistance with at least one ADL at a level 3 or greater.

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The Department found that Appellant has no such need in this case and is therefore ineligible to receive HHS as he requested.

Appellant and his representative now bear the burden of proving by a preponderance of the evidence that the Department erred in making that decision.

Here, the Department's decision was based on information obtained directly from Appellant and his doctor. For example, Appellant's doctor only certified that Appellant had a need for assistance with the IADLs of taking medication, meal preparation, and laundry. (Respondent's Exhibit A, page 6a). Moreover, as stated in ASW J ██████████ ██████████' notes, completed at the time of the assessment, Appellant only reported a need for hands-on assistance the IADLs of laundry, meal preparation, housework, and shopping. (Respondent's Exhibit A, pages 13-14).

Appellant did report a need for assistance with transportation to medical appointments (Respondent's Exhibit A, pages 13-14), but that transportation is expressly identified as a non-covered service in the above policy regarding HHS (ASM 101, page 5 of 5).

Similarly, while Appellant further report a need for supervision or reminding with respect to taking medications and bathing (Respondent's Exhibit A, pages 13-14), but those services are also expressly identified as a non-covered in the above policy (ASM 101, page 5 of 5).

In response, Appellant's representative testified that, in addition to assistance with IADLs, Appellant also sometimes needs hand-on assistance with the ADLs of bathing, dressing, and mobility. Specifically, she noted that Appellant sometimes needs assistance washing the top half of his body, putting on shirts, and walking around. (Testimony of Appellant's representative).

However, Appellant's representative could not identify why Appellant needed such assistance or what specific medical conditions partially limited his ability to bathe, dress, or walk. (Testimony of Appellant's representative).

That lack of detail or explanation is particularly significant in this case given all of the tasks Appellant can complete, including bathing most of his body and usually dressing himself independently, as well as the fact that Appellant does not use a cane and his own doctor specifically stated that Appellant only requires assistance with IADLs.

Given that the medical needs form, in addition to Appellant's representative's lack of detail, this Administrative Law Judge also finds ASW ██████████ ██████████ notes to be credible as to what was reported during the home visit and the Department is justified in relying on what he reports.

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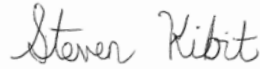
Accordingly, Appellant and his representative have failed to meet their burden of proving that the Department erred. The Department properly found that Appellant had no need for physical assistance with any ADLs and its decision to deny services on that basis must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's request for 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]

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.