

**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. 2014-31380 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 ██████████. Appellant appeared and testified on his own behalf. Appellant's daughter ██████████ also testified for the Appellant. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker, 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 (██████████) Medicaid beneficiary. (Testimony).
2. Appellant has been diagnosed with Rheumatoid arthritis, asthma, glaucoma, type II diabetes, and back pain. (Exhibit A, pp. 10, 14).
3. In ██████████ 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 was eligible for HHS due to his use of a cane and his case was opened due to technological equipment. Effective ██████████ Appellant began receiving HHS. (Exhibit A, pp. 11, 13 and testimony).
4. On ██████████ Appellant was seen driving a pickup and walking on an unplowed street without the use of any adaptive equipment. (Exhibit A, pp. 9, 12).

Docket No. 2014-31380 HHS
Decision and Order

5. On [REDACTED], the ASW issued an Advance Negative Action Notice to Appellant informing him that his HHS would be terminated effective [REDACTED] because he was seen driving a pickup and walking on an unplowed street without the use of any adaptive equipment. The notice further stated his HHS was opened due to his use of adaptive equipment that Appellant did not need or use. (Exhibit A, pp. 5-8 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.

Docket No. 2014-31380 HHS
Decision and Order

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:

Docket No. 2014-31380 HHS
Decision and Order

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

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 must 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.

* * *

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

**Docket No. 2014-31380 HHS
Decision and Order**

- 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.

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.

Docket No. 2014-31380 HHS
Decision and Order

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 1, 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 Worker (ASW) [REDACTED] stated on [REDACTED] he personally observed the Appellant driving a pickup and walking on an unplowed street without the use of any adaptive equipment. Appellant was able to get out of the pickup, walk through the snow, and proceed across the property up to the residence of a relative of his chore provider. Appellant was able to make it through the snow on his own without the use of any adaptive equipment or the assistance of another person. As a result of these observations, the ASW determined that the Appellant did not need assistance with his personal care.

The ASW noted Appellant's HHS was opened due to his use of adaptive equipment. However, as a result of his observations on [REDACTED] the ASW determined the Appellant did not meet the criteria for HHS as he did not need the use of adaptive equipment to get around. The ASW stated on [REDACTED] he issued an Advance Negative Action Notice to the Appellant informing him that his HHS would be terminated effective [REDACTED] because he was seen driving a pickup and walking on an unplowed street without the use of any adaptive equipment. The notice further stated his HHS was opened due to his use of adaptive equipment that Appellant did not need or use. The ASW stated the Appellant was also observed on two occasions coming to the DHS office alone and without the use of a cane, once on [REDACTED] when he dropped off his application and medical needs form, and again on [REDACTED] when he was seen walking and transferring without his cane.

During the hearing, the Appellant disputed the testimony of the ASW. He said he always had his cane and chore provider whenever he came to the DHS office.

Docket No. 2014-31380 HHS
Decision and Order

Appellant said he has a straight cane, and is only able to walk a half of a block before his body shuts down. Appellant daughter testified that the Appellant's caregiver did everything he was supposed to do. She further said the Appellant was locked out of his house without his cane the day he was seen walking in the snow by [REDACTED]

The preponderance of reliable evidence in this case demonstrates that the Appellant was seen by his ASW driving a pickup and walking on an unplowed street without the use of any adaptive equipment. It became clear to his ASW that the Appellant did not meet the criteria for HHS as he did not need the use of adaptive equipment to get around. The ASW stated the Appellant was also seen on two other occasions coming to the DHS office and walking and transferring without the use of his cane or without any assistance from another.

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. Due to his observations of the Appellant walking and transferring without the use of adaptive equipment, the ASW determined that the Appellant does not require assistance with mobility at a level 3 or greater. Furthermore, based on the definition for mobility, if the Appellant was able to navigate a snow covered street on his own and appear at the DHS office without the need for any type of assistance, he would certainly be able to move inside the living area of his home, or change locations in a room in his home without the need for assistance. Appellant demonstrated he had no such need at the time Appellant was seen driving a pickup and walking on an unplowed street without the use of any adaptive equipment. 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 terminated Appellant's 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

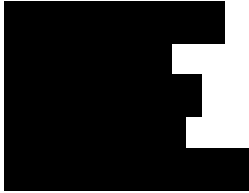
Date Signed: [REDACTED]

Date Mailed: [REDACTED]


Docket No. 2014-31380 HHS
Decision and Order

WDB/db

cc:



***** 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.