

**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. 2014-31584 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 Appellant's request for a hearing.

After due notice, an in-person hearing was commenced on ██████████. ██████████ represented Appellant. Appellant and his son/care provider, ██████████, testified as witnesses for Appellant. ██████████ Appeals Review Officer, represented the Department of Community Health ("DCH" or "Department"). ██████████, Adult Services Specialist, and ██████████ Adult Services Supervisor, from the ██████████ County Department of Human Services (DHS) testified as witnesses for the Department.

ISSUE

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 osteoarthritis; human immunodeficiency virus (HIV); and severe chronic pain. (Respondent's Exhibit A, page 8).
2. On ██████████, Appellant was referred for HHS. (Respondent's Exhibit A, page 6).
3. As part of his application, Appellant submitted a medical needs form completed by his doctor. (Respondent's Exhibit A, page 8).

██████████
Docket No. 2014-31584 HHS
Decision and Order

4. In that medical needs form, Appellant's doctor indicated that Appellant had a medical need for assistance with toileting, bathing, grooming, dressing, transferring, mobility, taking medications, meal preparation, shopping, laundry, and housework. (Respondent's Exhibit A, page 8).
5. On ██████████ conducted an initial assessment with Appellant and Appellant's son/care provider in Appellant's home. (Respondent's Exhibit A, page 10).
6. During that assessment, Appellant reported that he and his son, who is an adult, live together. (Respondent's Exhibit A, page 10).
7. ██████████ and Appellant also discussed Appellant's needs, but the home visit became contentious, with Appellant becoming very agitated and angry when asked questions, and was very short. (Testimony of Appellant; Testimony of ██████████)
8. Following the home visit and assessment, the Department sent Appellant written notice that he had been approved for ████████ hours and ██████ minutes of HHS per month, with a total monthly care cost of ██████████. (Respondent's Exhibit A, pages 9, 11; Testimony of ██████████).
9. Specifically Appellant was approved for assistance with bathing ██████ minutes per day, ██████ days a week (██████ per month); grooming ██████ minutes a day, ██████ day a week (██████ month); dressing ██████ minutes a day, ██████ days a week (██████ per month); toileting ██████ minutes a day, ██████ days a week (██████ per month); taking medications ██████ minutes a day, ██████ days a week (██████ per month); housework ██████ minutes a day, ██████ day a week (██████ per month); laundry ██████ minutes a day, ██████ day a week (██████ 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 11).
10. Given that Appellant lived with his adult son/care provider, ██████████ prorated the assistance he would have received with the tasks of laundry, shopping, housework and meal preparation by one-half pursuant to the Department's policy regarding shared living arrangements. (Testimony of ██████████).
11. The effective start date of Appellant's HHS was ██████████ (Respondent's Exhibit A, page 14).
12. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant in this matter. (Respondent's Exhibit A, page 4).

Docket No. 2014-31584 HHS
Decision and Order

13. In that request, Appellant asserted that the hours of HHS he has been authorized for are grossly inadequate and that he needs long-term care payments to his provider because Appellant is going to have back surgery in three weeks. (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.

Adult Services Manual 101 (12-1-2013) (hereinafter "ASM 101") and Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") addressed the issues of what services are included in HHS and how such services are assessed.

For example, ASM 101 provides:

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.**

Docket No. 2014-31584 HHS
Decision and Order

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 [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 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

- 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.

Docket No. 2014-31584 HHS
Decision and Order

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.

Complex Care Needs

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.

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:

██████████
Docket No. 2014-31584 HHS
Decision and Order

- 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 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 adjoining 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

In this case, following a home visit and functional assessment, the Department decided to authorize HHS in the amount of █ hours and █ minutes per month, with a total monthly care cost of █.

Appellant challenges the amount of HHS authorized in his request for hearing and argues that the Department failed to approve HHS for all the tasks he requires assistance with or authorize sufficient time for assistance with the tasks it did approve HHS for.

Each of the disputed tasks will be discussed below. Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in making its decision.

From the reasons discussed below, this Administrative Law Judge finds that Appellant has failed to meet that burden of proof and that the Department's actions must therefore be affirmed.

Bathing

██████████ ranked Appellant a “3” in bathing and found that he needs assistance with that task due to numbness on the right side of his body. (Respondent’s Exhibit A, page 12). ██████████ also testified that, based on that ranking and the RTS used by the Department as a guide, she authorized ██████████ minutes a day, ██████████ days a week ██████████ per month) of assistance with bathing. (Respondent’s Exhibit A, page 11; Testimony of ██████████).

Appellant testified that his provider does “everything” for him with respect to bathing and that he needs much more time for assistance with that task. (Testimony of Appellant).

With respect to bathing, Adult Services Manual 121 (5-1-2013) (hereinafter “ASM 121”), page 2 of 6, provides:

Bathing - helping with cleaning the body or parts of the body using a tub, shower or sponge bath; including getting a basin of water, managing faucets, soaping, rinsing and drying. helping shampoo hair.

- 1 No assistance required.
- 2 Bathes self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.
- 3 Minimal hands-on assistance or assistive technology required to carry out task. Generally bathes self but needs some assistance with cleaning hard to reach areas; getting in/out of tub/shower. Client is able to sponge bath but another person must bring water, soap, towel. Client relies on a bath or transfer bench when bathing. The constant presence of another is not required.
- 4 Requires direct hand-on assistance with most aspects of bathing. Would be at risk if left alone.
- 5 Totally dependent on others in all areas of bathing.

Given that definition, Appellant appears to be seeking a ranking of “5” based on his testimony that his provider does “everything” for him in bathing. However, such general testimony is not particularly informative, especially where Appellant is able to complete aspects of other tasks despite his medical issues, and fails to justify a higher ranking or additional assistance on its own.

██████████
Docket No. 2014-31584 HHS
Decision and Order

Moreover, this Administrative Law Judge is limiting to reviewing the Department's decision in light of the information it had at the time it made that decision and, in this case, Hollins is more credible regarding what was reported during the assessment. Appellant may not have reported all of his needs during the home visit due to the contentious nature of the assessment, as ██████████ also testified that Appellant was uncooperative while Appellant's acknowledged that he was agitated and angry, but the Department can only act on what it is told. Based on what was reported, Appellant has failed to meet his burden of proof with respect to bathing assistance and the Department's decision must be affirmed.

Grooming

The Department ranked Appellant a "3" in grooming and authorized ██████ minutes a day, ██████ day a week (██████ per month) for assistance with that task. (Respondent's Exhibit A, pages 11-12).

Hollins testified that the assistance was based on Appellant's reports that he needs assistance with shaving and cutting his hair once a week. (Testimony of ██████████).

In response, Appellant testified that, in addition to cutting his hair weekly, his provider also shaves Appellant and brushes Appellant's hair daily. (Testimony of Appellant).

Given the definition of grooming in policy, all of the assistance Appellant seeks could be covered by HHS:

Grooming - Maintaining personal hygiene and a neat appearance; including the combing/brushing of hair; brushing/cleaning teeth, shaving, fingernail and toenail care.

- 1 No assistance required.
- 2 Grooms self with direction or intermittent monitoring. May need reminding to maintain personal hygiene
- 3 Minimal hands-on assistance required. Grooms self but needs some assistance with activities of personal hygiene.
- 4 Requires direct hands-on assistance with most aspects of grooming. Would be at risk if left alone.
- 5 Totally dependent on others in all areas of grooming.

ASM 121, page 2 of 6

██████████
Docket No. 2014-31584 HHS
Decision and Order

However, this Administrative Law Judge finds ██████████ to be more credible as to what was reported during the home visit and the Department is justified in only authorizing assistance with grooming one day a week if that is all the assistance Appellant identified. As discussed above, Appellant acknowledged that he was agitated during the assessment and, given the contentious nature of the home visit, he may not have reported all of his needs. Accordingly, the Department's decision with respect to grooming assistance is affirmed.

Dressing

The Department also ranked Appellant a "3" in grooming and authorized ██████████ minutes a day, ██████████ days a week ██████████ per month) for assistance with that task. (Respondent's Exhibit A, pages 11-12).

According to ██████████ Appellant reported a need for assistance due to numbness and pain, and she utilized the RTS used by the Department as a guide in authorizing the specific minutes per day approved. (Testimony of ██████████).

In response, Appellant testified that he needs more time for assistance with dressing as his provider has to help him put on his pants and shirt. (Testimony of Appellant).

With respect to dressing, ASM 121, page 3 of 6, states:

Dressing - Putting on and taking off garments; fastening and unfastening garments/undergarments, assisting with special devices such as back or leg braces, elastic stockings/garments and artificial limbs or splints.

- 1 No assistance required.
- 2 Client is able to dress self but requires reminding or direction in clothing selection.
- 3 Minimal hands-on assistance or assistive technology required. Client unable to dress self completely (i.e. tying shoes, zipping, buttoning) without the help of another person or assistive device.
- 4 Requires direct hands on assistance with most aspects of dressing. Without assistance would be inappropriately or inadequately dressed.
- 5 Totally dependent on others in all areas of dressing.

██████████
Docket No. 2014-31584 HHS
Decision and Order

Given Appellant's testimony, it appears that he would be ranked a "4" rather than the "3" found by ██████████. However, as discussed above, this Administrative Law Judge is limiting to reviewing the Department's decision in light of the information it had at the time it made that decision and, in this case, ██████████ is more credible regarding what was actually reported during the home visit. Based on that credibility determination, Appellant has failed to meet his burden of proof and the Department's decision on dressing is affirmed.

Toileting

██████████ ranked Appellant a "3" in toileting and authorized ██████████ minutes per day, ██████████ days a week (██████████ per month) of assistance with that task. (Respondent's Exhibit A, pages 11-12).

According to ██████████, the ranking and approval of HHS was based on Appellant's reports that he needs assistance in changing his diapers. (Respondent's Exhibit A, pages 11-12; Testimony of ██████████).

Appellant testified in response that, in addition to assistance with diapers ██████████ times a day, he also needs assistance getting to the bathroom. (Testimony of Appellant).

ASM 121, page 1 of 6, defines toileting as follows:

Toileting - helping on/off the toilet, commode or bedpan; emptying commode, bed pan or urinal, managing clothing, wiping and cleaning body after toileting, cleaning ostomy and/or catheter tubes/receptacles, applying diapers and disposable pads. May also include catheter, ostomy or bowel programs.

- 1 No assistance required.
- 2 Verbal direction, prompting or reminding is required.
- 3 Minimal hands-on assistance or assistive technology needed with some activities. The constant presence of another person while toileting is not necessary.
- 4 The client does not carry out most activities without human assistance.
- 5 Totally dependent on others in all areas of toileting.

██████████
Docket No. 2014-31584 HHS
Decision and Order

Here, Appellant did not explain why he needs assistance in the bathroom when he uses diapers daily and is already changed four times a day. The Department has authorized significant assistance with toileting and Appellant failed to meet his burden of proving that he needs more.

Transferring

The Department ranked Appellant a “1” in transferring and no time was authorized for assistance with that task. (Respondent’s Exhibit A, pages 11-13).

According to ██████████, she did not observe any adaptive equipment in Appellant’s home and Appellant, though uncooperative, reported being independent in transferring. (Testimony of ██████████).

In response, Appellant testified that he needs assistance getting in-and-out of bed and that his need for assistance with transferring with only increase in the future as he has been slated for back surgery. (Testimony of Appellant).

However, whatever Appellant’s needs are after some future surgery are immaterial to this action as the Department may only authorize assistance based on Appellant’s current needs. Regarding those current needs, this Administrative Law Judge finds Hollins to be credible as to what was reported during the home visit and, based on the reports of independent transferring, the Department’s denial of assistance with transferring is affirmed.

Eating

Appellant was ranked a “1” in eating and no HHS were authorized with respect to that task. (Respondent’s Exhibit A, pages 11-13).

In his request for hearing, Appellant specifically identified eating as an area of need. (Respondent’s Exhibit A, page 4).

However, his doctor did not identify a need for assistance with eating on the medical needs form (Respondent’s Exhibit A, page 8) and Appellant did not discuss any such need during his testimony at the hearing (Testimony of Appellant).

Accordingly, the undersigned Administrative Law Judge finds that Appellant has failed to meet his burden of proof with respect to the task of eating and the Department’s decision regarding that task is sustained.

Mobility

The Department ranked Appellant a “1” in mobility and no time was authorized for assistance with that task. (Respondent’s Exhibit A, pages 11-13).

██████████
Docket No. 2014-31584 HHS
Decision and Order

According to ██████████, she did not observe any adaptive equipment in Appellant's home and Appellant, though uncooperative, reported being independent in mobility. (Testimony of ██████████).

In response, Appellant testified that he uses a wheelchair to get to the bathroom. (Testimony of Appellant).

However, even assuming for the sake of argument that Appellant's testimony is true, he failed to identify any need for hands-on assistance with mobility from a provider. Per policy, while the use of adaptive equipment can justify a higher ranking for a task, the Department may still only pay for hands-on assistance provided by the provider. Therefore, the Department's denial of assistance with mobility must also be affirmed.

Taking Medications

Appellant was ranked a "3" in taking medications on the basis that Appellant reported that he needs his assistance due to his numbness. (Respondent's Exhibit A, page 12). Based on that ranking and the RTS used by the Department as a guide, ██████████ authorized █ minutes a day, █ days a week of assistance with taking medications. (Respondent's Exhibit A, page 11; Testimony of ██████████).

With respect to taking medications, ASM 121, page 4 of 6, states:

Taking Medication - Taking prescribed and/or over the counter medications

- 1 No assistance required.
- 2 Client is able to take all medications but needs reminding or direction.
- 3 Client is able to take all medication if someone assists in measuring dosages or prepares administration schedule.
- 4 Client is able to take some medication if another person assists in preparation, but needs someone to assist in administering other medications.
- 5 Totally dependent on another. Does not take medication unless someone assists in administering.

Given that definition, the ranking of "3" is clearly proper as Appellant expressly testified that he is able to take all his medications, including any injections, so long as his provider assists in setting them up. (Testimony of Appellant). Moreover, Appellant offered no justification for exceeding the RTS in this case or authorizing more time.

██████████
Docket No. 2014-31584 HHS
Decision and Order

Meal Preparation/Shopping/Laundry/Light Housework

As discussed above, the Department also authorized HHS for assistance with the tasks of meal preparation, shopping, laundry and light housework. Those four tasks may also be grouped together in this decision and order as the arguments and evidence of the parties are essentially the same for each task.

Appellant was ranked a “3” in all four tasks and, pursuant to the recommendations made by the RTS tool used by the Department as a guide, ██████████ authorized assistance with housework ██████████ minutes a day, ██████████ day a week (██████████ per month); laundry ██████████ minutes a day, ██████████ day a week (██████████ 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, pages 11, 13; Testimony of ██████████).


Moreover, given that Appellant lived with his adult son/care provider, ██████████ prorated the assistance he would have received with the tasks of laundry, shopping, housework and meal preparation by one-half pursuant to the Department’s policy regarding shared living arrangements. (Testimony of ██████████).

In response, Appellant testified that he requires more time with assistance for those tasks. (Testimony of Appellant). He also noted that his meals have to be cooked separately. (Testimony of Appellant).

However, while Appellant generally testified that he needs more time for assistance with the four IADLs, he fail to identify any specific need for more time or assistance. It also appears that Appellant would not be disputing the assistance he was authorized if his assistance with meal preparation, shopping, laundry and light housework had not been prorated by one-half.

To the extent Appellant disputes the proration of his HHS, the Department’s decision must also be affirmed. It is undisputed that Appellant’s adult son lives with him and therefore his assistance with meal preparation, shopping, laundry and light housework must be prorated by one-half pursuant to the applicable policy. The above policy does provide that hours for assistance with IADLs such as meal preparation need not be prorated if it can be clearly documented that the assistance for Appellant is completed separately from others in the home. See ASM 120, page 5 of 7. However, in this case, there is no such clear documentation. Appellant’s claim that his meals must be prepared separately is completely unsupported and there is no showing that he has a special diet.

As discussed above, the burden is on Appellant to prove by a preponderance of the evidence that the Department erred in denying additional assistance with meal preparation, shopping, laundry and light housework. Based on the evidence presented in this case, Appellant has failed to meet that burden. Appellant did not support his broad claims for more assistance and Appellant’s HHS were properly prorated by one-half with respect to those four tasks.

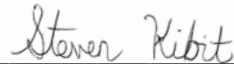

Docket No. 2014-31584 HHS
Decision and Order

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



Steven J. Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: 

Date Mailed: 

SK/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.