

**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. 2014-32082 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 her own behalf. ██████████ Appeals Review Officer, represented the Department of Community Health. ██████████, Adult Services Worker from the ██████████ County DHS ██████████ District Office, appeared as a witness for the Department. ██████████, Adult Services Supervisor, was also present but did not testify.

ISSUE

Did the Department properly terminate Appellant's 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.
2. Appellant has been diagnosed with arthritis, hypertension, fibromyalgia, and mental health issues. (Exhibit A, p. 16).
3. On ██████████, the ASW sent Appellant a letter to schedule a home visit on ██████████ for her annual redetermination for HHS. (Exhibit A, pp. 5 -12 and testimony).
4. On ██████████, the ASW attempted a home visit with the Appellant at her apartment to conduct a face-to-face assessment to determine Appellant's continued eligibility for HHS. The ASW was unable to make contact as there was no answer at the residence. The ASW left her business card and noted she had no contact with the Appellant at the residence as the Appellant had left the apartment because of bed bugs. (Exhibit A, p. 10 and testimony).

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5. On [REDACTED], the Department sent Appellant an Advance Negative Action Notice informing her that her HHS would be terminated effective [REDACTED], because the ASW was unable to make contact with the Appellant at her current address, and was unable to complete an annual redetermination to determine the Appellant's continued need for HHS. (Exhibit A, pp. 9-12 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 if assessed at a level 3 or greater. [ASM 101, pages 1-2 of 4, emphasis added].

ASM 120, Adult Services Comprehensive Assessment, indicates the primary tool for determining need for services is the comprehensive assessment. ASM 120 states in part:

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

* * *

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- A face-to-face contact is required with the client in his/her place of residence.

* * *

- The assessment must be updated as often as necessary, but **minimally** at the six months 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
- 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.

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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. [ASM 120, pages 1-3 of 6, emphasis added].

In this case the Appellant's ASW, [REDACTED], stated she sent the Appellant a home call letter on [REDACTED] advising that she would be making a home call visit for her redetermination on [REDACTED]. The ASW stated on [REDACTED] she attempted the home visit with the Appellant but was unable to make contact as there was no answer at the residence. The ASW left her business card and noted she had no contact with the Appellant at the residence as the Appellant had left the apartment because of bed bugs. The Department then sent Appellant an Advance Negative Action Notice on [REDACTED], informing her that her HHS would be terminated effective [REDACTED], because the ASW was unable to make contact with the Appellant at her current address, and was unable to complete an annual redetermination to determine the Appellant's continued need for HHS.

The ASW stated she had attempted [REDACTED] prior home visits at the Appellant's apartment on [REDACTED], and again on [REDACTED], but the Appellant was not at the residence either time. [REDACTED] did acknowledge that she had a phone conversation with the Appellant on [REDACTED] after the first missed home visit. Appellant advised the ASW that she was staying with her son/provider due to having bed bugs in the apartment. [REDACTED] stated the Appellant advised she was unsure when a home visit could take place and she was told to call [REDACTED] when she had

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established a stable residence. However, the Appellant never contacted the ASW after the conversation. stated she sent out negative action notices after the missed visits in and , but she still did not have any contact from the Appellant.

During the hearing, Appellant testified that the ASW closed her case because she had bed bugs. Appellant testified that she had recordings on her phone that were made following the closure of the case on . Appellant was given permission to play the recordings, but was unable to do so in the hearing room. Appellant also testified that the ASW never sent her any negative action notices or home visit letters or she would have been available for the scheduled home visits. Appellant also said she has had a stable home since .

The preponderance of the reliable evidence presented in this case demonstrates that the ASW was unable to complete the required comprehensive assessment at the time of the annual redetermination. The electronic records that were made a part of Exhibit A support the testimony of the ASW that the Appellant was notified three times of the needed home visit for a redetermination, and times the Appellant failed to make herself available for the home visit. Whether the inability to complete the home visit was the result of the Appellant not being at home on the scheduled dates, or due to the fact that she was forced to absent herself from her apartment due to a bed bug infestation does not change the fact that the required redetermination did not take place. Accordingly, the Department properly terminated the Appellant's HHS. The Department's decision must be sustained.

Appellant was advised by the DHS that she could reapply for HHS. Thereafter, if face-to-face contact can be made with her in her residence, and a proper comprehensive assessment is able to be conducted by the ASW, the Appellant can again be considered for HHS.

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

Date Signed: 14

Date Mailed:


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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.