

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant.

Docket No. 2014-34217 HHS

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared. Appellant was represented by ██████████, daughter-in-law and caregiver.

██████████ muakpor, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Worker (ASW), and ██████████, Adult Services Supervisor, (ASS), appeared as witnesses for the Department.

ISSUE

Did the Department properly determine the number of hours for 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 an ██████ year-old male Medicaid beneficiary who lives in a household with his son, daughter-in-law, and their three minor children ages ██████████. (Exhibit A.10)
2. Appellant has been diagnosed with COPD, HTN, Cardiomyopathy, back pain, arthritis. (Exhibit A.6)
3. On ██████████, the Department's ASW went to Appellant's home to conduct an assessment for HHS. Except for respiration, Appellant was rated at a 3, 4, or 5 for all ADLs and IADLs. Appellant was rated at a 4 for housework, 4 for laundry, and 4 for shopping. (Exhibit A.12)
4. On ██████████ the Department issued a notice of approval and case opening in the amount of \$ ██████████ due to proration policy. (Exhibit A.7)

5. The ASW subsequently explained to Appellant that policy requires the Department to prorate Appellant's HHS hours for Instrumental Activities of Daily Living (IADL's).
6. Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on ██████████, stating in part that Appellant not given an explanation of proration, and, that other beneficiaries receive more HHS than granted to 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.

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 (ASM 120, 5-1-2012), pages 1-4 of 5 addresses the adult services comprehensive assessment:

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 will 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.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.
 - Use the DHS-27, Authorization to Release Information, when requesting client information from another agency.
 - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. The form is primarily used for APS cases.
- Follow rules of confidentiality when home help cases have companion APS cases, see SRM 131 Confidentiality.

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the home help services 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 ranking 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.

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 IADLs if the assessment determined a need at a level 3 or greater.

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.

Time and Task

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

An assessment of need, at a ranking of 3 or higher, 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 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 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.

Emphasis added

*Adult Services Manual (ASM) 120, 5-1-2012,
Pages 1-5 of 5*

In this case, Appellant's representative argued that she felt that the conduct of a state employee was not appropriate. This ALJ has no jurisdiction regarding the conduct of a state employee; Appellant may file a complaint at the DHS office.

As to the action herein, Appellant's representative complained that she was not given an adequate explanation of the action. Specifically, Appellant's representative was confused regarding the federal and state requirement as to proration of IADLs. This policy is cited above; the Department is required to prorate the IADLs by one-half when there are other adults living in the home. Unfortunately, the policy is extensive and detailed; individual Departmental employees are not held to a standard to educate and/or advise individuals as to the policy (or law and regulations). All Department policies are public information available to the public on the internet.

A review of the proration herein indicates that in fact, Appellant was given a Rank of 4 in many IADLs; thus he was given almost the maximum, but due to the proration requirements, this was reduced by one-half. That is, Appellant's representative is correct to the extent that Appellant does have more needs; law and policy require a reduction of the assessment. And while this may be contrary to a physician's assessment, it is not discretionary by the ASW. Law and policy requires proration. ASM 120.

As to the living arrangements, at the administrative hearing there was some dispute regarding whether there were separate living spaces in the home. However, the ASW indicated that she did not observe this, but, at the next assessment, would review this issue.

