

**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.** 2014-34219 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 ██████████ an Administrator at ██████████ appeared and testified on Appellant's behalf. ██████████ Appellant's case worker at ██████████, and ██████████ Appellant's case worker at ██████████ also testified as witnesses for Appellant. Appellant was present during the hearing, but did not participate,

██████████, Appeals Review Officer, represented the Department of Community Health ("DCH" or "Department"). ██████████, Independent Living 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 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 prostate cancer; diabetes; and mental impairment. Appellant is also non-verbal and blind. (Respondent's Exhibit A, pages 7, 11).
2. Appellant lives in a group home, where he pays the rent and receives ██████ hours per day, ██████ days a week, of care and supervision, including



**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") addresses what services are included in HHS:

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 [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, with respect to the coordination of HHS with other services, Adult Services Manual 125 (12-1-2013) (hereinafter "ASM 125") provides in part that:

### **PARTNERSHIPS**

The adult services specialist has a critical role in developing and maintaining partnerships with community resources.

To facilitate these partnerships the adult services specialist will:

- Advocate for programs to address the needs of clients.
- Emphasize client choice and quality outcomes.
- Encourage access and availability of supportive services.

Work cooperatively with other agencies to ensure effective coordination of services.

Coordinate available resources with home help services in developing a services plan that addresses the full range of client needs.

Do **not** authorize home help services if another resource is providing the same service at the same time.

### **COMMUNITY MENTAL HEALTH (CMH)**

Many clients are eligible for home help services while also receiving mental health services through the local community mental health services programs (CMHSPs) or prepaid inpatient health plans (PIHPs).

Clients, who live in unlicensed settings where home help services may be provided, include:

- Own home/apartment, either living alone or with roommates or relatives. Client's name is on the lease or mortgage.
- Home of a family member.
- Supported independent setting (formerly called SIP homes). The lease is held by an individual that is **not** also the provider of other services such as home help.

**Note:** The instrumental activities of daily living in shared living arrangements must be divided by **one half**.

### **Community Living Supports (CLS)**

Clients eligible for home help services authorized by the adult services specialist may also receive community living supports (CLS) authorized through the local community mental health services pro-grams (CMHSPs) or prepaid inpatient health plans (PIHPs). **Community living supports services cannot duplicate or replace home help services.**

The client's plan should clearly identify where home help and community living supports are **complementary**. The adult services specialist determines the need for services based

on the DHS-324, Adult Services Comprehensive Assessment. If the client is receiving the maximum authorized through home help and still needs additional hands on assistance with some ADLs and/or IADLs in order to remain at home, community living supports services may be used to provide that additional direct physical assistance which exceeds the cost of care determined by DHS.

Unlike home help, which only provides direct hands on assistance with ADLs and IADLs, community living supports services typically are used for skill development or supervision. In such situations, the use of both home help and community living supports is permitted as the services are different and not a duplication.

The community living supports services may not supplant or replace home help services. The client must exhaust all available services under home help before seeking community living supports.

*ASM 125, pages 1-2 of 12  
(Underline added by ALJ)*

In this case, it is undisputed that Appellant needs assistance with tasks covered by HHS, including at least bathing, grooming, eating, taking medications, housework, laundry, shopping, and meal preparation.

It is also undisputed that Appellant had already been authorized a significant amount of CLS at the time he applied for HHS and that those CLS were meeting all of his current needs for assistance at the time of the assessment.

The Department therefore denied Appellant's request for HHS on the basis that any HHS would be duplicative and it cannot, per the above policy, authorize HHS "if another resource is providing the same service at the same time." See ASM 125, page 1 of 12.

However, while the Department correctly notes that HHS cannot be authorized if another resource is already providing the same services, other parts of the same policy specifically address the relationship between HHS and CLS and make clear that the proper procedure in this case would have been to authorize the HHS that Appellant needs, coordinate with the other agencies, and have any CLS duplicating Appellant's HHS removed. As acknowledged by Appellant's witnesses, Appellant's CLS will be reduced when HHS are granted.

Per policy, a beneficiary may receive HHS and CLS at the same time, but the CLS cannot duplicate or replace HHS and a client must first "exhaust all available services

under home help before seeking community living supports.” See ASM 125, pages 1-2 of 12. Therefore, HHS should be authorized and exhausted prior to CLS and any necessary CLS should only be authorized to complement the HHS the client is already receiving.

Here, the order described in policy was reversed as Appellant was already receiving CLS at the time he applied for HHS. Nevertheless, despite that complication, the applicable policy did not change and the Department is always required to work cooperatively with other agencies to ensure effective coordination of services. See ASM 125, page 1 of 12.

Accordingly, instead of simply denying HHS, the Department should have worked to properly coordinate Appellant’s services with the local PIHP/CMHSP and ensure that Appellant received all of the HHS and all of the complementary CLS that is medically necessary.

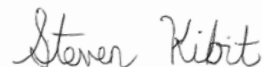
Moreover, even if the Department chose not to coordinate with the other agency, the above policy makes clear that HHS should be authorized prior to CLS and that the authorization of HHS is independent from any CLS. Therefore, regardless of any subsequent effect such an authorization should have on his CLS, the Department erred in denying a request for HHS on the basis that such services would be duplicative of the CLS he has been receiving. As acknowledged by Appellant’s witnesses, Appellant’s CLS will be reduced when HHS are granted.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly denied Appellant’s request for HHS.

**IT IS THEREFORE ORDERED THAT:**

The Department’s decision is **REVERSED** and it must initiate a reassessment of Appellant’s request for HHS.



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

Date Signed: ██████████

Date Mailed: ██████████

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Decision and Order**

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**\*\*\* 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.