

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

P.O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF:

██████████

Appellant

Docket No. 2014-35979 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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared on his own behalf. ██████████, Appellant's sister, appeared as a witness. ██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Worker ("ASW"), appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's Home Help Services ("HHS") application?

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, born ██████████, who applied for HHS on or about ██████████. (Exhibit A, pp 9, 14; Testimony)
2. Appellant has been diagnosed with lumbago, anxiety, ADD, foot pain, hypertension, insomnia, and carpal tunnel. (Exhibit A, pp 12; Testimony)
3. On ██████████, the ASW went to Appellant's home and completed an initial evaluation with Appellant and his provider. During the assessment, the ASW determined that Appellant did not have a need for hands on assistance with any Activities of Daily Living (ADL). Appellant reported to the ASW that he was independent with the ADL's of bathing, grooming, toileting, transferring, eating and mobility, but needed assistance with the Instrumental Activities of Daily Living (IADL's) of housework, laundry, shopping, errands and meals. (Exhibit A, p 10; Testimony)

4. A Medical Needs Form completed by Appellant's doctor also indicated that Appellant only needs assistance with IADL's. (Exhibit A, p 14; Testimony)
5. Based on the information available at the time of the assessment, the ASW concluded that Appellant did not have a medical need for hands on assistance with any ADL. (Exhibit A, p 10; Testimony)
6. On ██████████, the Department sent Appellant an Adequate Action Notice informing him that his HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL. (Exhibit A, pp 6-9; Testimony)
7. On ██████████, Appellant's hearing request was received by the Michigan Administrative Hearing System. (Exhibit 1)

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.

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:

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

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.

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.

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 2-3 of 7, emphasis added].

The ASW testified that on [REDACTED], he went to Appellant's home and completed an initial evaluation with Appellant and his provider. During the assessment, the ASW determined that Appellant did not have a need for hands on assistance with any Activities of Daily Living (ADL). Appellant reported to the ASW that he was independent with the ADL's of bathing, grooming, toileting, transferring, eating and mobility, but needed assistance with the Instrumental Activities of Daily Living (IADL's) of housework, laundry, shopping, errands and meals. The ASW testified that based on the information available at the time of the assessment, he concluded that Appellant did not have a medical need for hands on assistance with any ADL. Therefore, the ASW indicated that on [REDACTED], he sent Appellant an Adequate Action Notice informing him that his HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL.

Appellant testified that his sister assists him with bathing, but that he was too embarrassed to mention that fact to the ASW.

Appellant's sister testified that she began assisting Appellant with bathing about a month and a half ago because people were complaining about Appellant's hygiene. Appellant's sister indicated that she has Appellant wear swim trunks in the tub, lathers him up, and then leaves the bathroom so that he can bathe his private parts. Appellant's sister testified that Appellant informed her that he could not reach parts of his body and that was why he was not cleaning himself thoroughly. Appellant's sister could not say for certain why Appellant could not reach certain parts of his body to bathe, but guessed that it might be because of his weight, or problems he has with his legs due to a shotgun wound when he was younger.

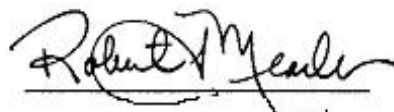
The evidence was not sufficient to establish that Appellant had a need for hands on assistance, functional ranking 3 or greater, with at least one ADL, based on the information available to the ASW for this assessment. The ASW provided credible, detailed testimony regarding his discussion of ADL's with the Appellant and his observations of Appellant during the assessment. Furthermore, a Medical Needs Form completed by Appellant's doctor indicated that Appellant only needs assistance with IADL's. Appellant admitted that he did not inform the ASW that he needed assistance with bathing and it also appears that any assistance he does receive with bathing from his sister began after Appellant was denied HHS. Accordingly, the denial of Appellant's HHS application is upheld. If Appellant has a medical need for assistance with bathing, he can always request another assessment for HHS. Appellant would also need his doctor to complete a 54a Medical Needs Form indicating that Appellant needs assistance with bathing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's HHS application based on the available information.

IT IS THEREFORE ORDERED that:

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



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

cc:

[REDACTED]

[REDACTED]
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RJM [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

***** 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.