

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

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IN THE MATTER OF:

██████████

Appellant.

Docket No. 2014-4023 HHS
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ), pursuant to M.C.L. § 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 offered testimony. ██████████, Appeals Review Officer (ARO), represented the Department of Community Health. ██████████, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly reduce Appellant's Home Help Services (HHS) specifically regarding meal preparation?

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 has been diagnosed with depression, mood swings, hallucination, hypertension and hepatitis C. (Exhibit A, p. 13)
2. As of ██████████, the Appellant lived in a one family home that he shared with his provider and other individuals. The Appellant lived in a bedroom on the second floor of the one family home. (Testimony)
3. On ██████████, the ASW conducted an annual assessment by visiting and interviewing the Appellant. The Appellant and his provider indicated there was only one kitchen in the home and it was located on the first floor and was shared by all of those living in the home. The home had only one entrance and the one entrance was shared. (Exhibit A, p. 9; Testimony)
4. On or around ██████████, the ASW reassessed the Appellant's living

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arrangement and determined that the chore services had to be prorated. (Exhibit A, pp. 5-7, 9, 16; Testimony)

5. The ASW reduced the total time for meal prep by half due to policy requiring a proration of IADLs for a shared household. (Exhibit A, p. 16; Testimony)
6. On [REDACTED], the Department sent Appellant an Advance Negative Action Notice. The Negative Action notice stated the action and reasons for the action. (Exhibit A, pp. 5-7)
7. On [REDACTED], MAHS received Appellant's Request for Hearing. (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 agencies.

Adult Services Manual 120 (5-1-12) (hereinafter "ASM 120") addresses the maximum number of hours and the proration of Instrumental Activities of Daily Living (IADLs) services:

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

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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 adjoined 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. [ASM 120, page 4 of 5, emphasis added].

MCL 28.291a provides in part:

(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11. [MCL 291a(c)].

MCL 28.292 provides in part:

(1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card. [MCL 28.292].

During the reassessment, the ASW discovered the Appellant to be sharing a residence in a one family home with his provider and other individuals. The ASW observed and was told the residence had only one kitchen (shared) and one entrance (shared). The second floor of the home contained a bedroom, sitting area and bathroom which were all used solely by the Appellant.

The ASW testified the total time authorized for meal preparation was prorated and decreased by half due to the policy requiring a proration of IADLs for a shared household.

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The Appellant disputed the living situation by indicating the residence was two separate apartments. The Appellant argued if he was to order cable the cable company would ask if he resided in the upper unit or lower unit. This in and of itself does not indicate the residence is a multi-family home. The fact there is only one kitchen and one entrance that is shared by the whole building is indicative that it is a single family home. Additionally, the fact someone can put a lock on their bedroom door does not mean the bedroom itself is an apartment. Although the Appellant argued it was a multi-family home, the Appellant failed to provide any evidence other than his own self-serving testimony.

The preponderance of the reliable evidence shows the ASW properly reassessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the reassessment showed the Appellant was in a shared living arrangement with his provider. Given this shared living arrangement, the Department was bound to follow the mandated policy and prorate the HHS time and payment for the IADLs noted, by at least one-half.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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

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

cc:

Date Signed: November 21, 2013

Date Mailed: November 21, 2013

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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.