

**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:**

██████████,

Appellant.

Docket No. 2014-7928 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's mother ██████████ appeared on the Appellant's behalf 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)?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. In or around ██████████, the Appellant requested HHS.
2. On ██████████, a Medical Needs form (54A) was submitted to the Department on behalf of the Appellant. The 54A indicated the Appellant only needed assistance with meal preparation, shopping, laundry and housework. (Exhibit A, p. 13; Testimony)
3. On ██████████, the ASW met with the Appellant and the Appellant's provider (Mr. Ahmad Harper) for an intake assessment. During the assessment, the ASW covered all Activities of Daily Living (ADL's) and Instrumental Activities of Daily Living (IADL's) with the Appellant and the Provider. The Provider and Appellant told the ASW the Appellant

██████████  
**Docket No. 2014-7928 HHS**  
**Hearing Decision & Order**

sometimes needs assistance bathing and only baths 3 times a week; needs assistance about 2 days per week with mobility due to bleeding; seldom needs assistance with grooming and has assistance preparing meals approximately 2 times a day. (Exhibit A, pp. 7, 10, 11; Testimony)

4. The Appellant shares the home with 4 other individuals. The individuals are related to the Appellant and are all younger than the age of 18. (Exhibit A, p. 8; Testimony)
5. On ██████████, the ASW sent the Appellant an Approval Notice. The notice indicated the Appellant was being approved for HHS services beginning ██████████, in the amount of \$ ██████████ a month. (Exhibit A, p. 5)
6. On ██████████, 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 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 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. [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].

In this case, the ASW completed the task of coming up with a service plan based upon the assessment and returned 54A. During this part of the process, the ASW set the time for the ADL's of bathing, dressing and mobility based upon the statements made by the Appellant and the Provider during the assessment. The ASW set the time for the

██████████  
**Docket No. 2014-7928 HHS**  
**Hearing Decision & Order**

IADL's of housework, laundry, shopping and meal preparation based upon a one half allocation due to other family members (children) living in the home.

The Appellant's Representative was not present for the assessment and could not directly rebut any of the ASW's testimony regarding what took place and what was discussed during the assessment. For this reason, I find the Appellant's/Providers statements regarding the time/task allocation for bathing, dressing and mobility to be correct and find no fault with this part of the ASW's assessment.

Policy requires that assessed hours for IADL's must be prorated by one half in shared living arrangements where other ADULTS reside in the home. In this case, the ASW prorated each of the IADL's in question based upon the Appellant's minor children and minor nephew living in the home. I find this action to be inappropriate as there was no evidence to indicate that any of the children were adults and over the age of 18.

The preponderance of the reliable evidence shows the ASW improperly assessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the assessment showed the Appellant was not in a shared living arrangement. And therefore, the ASW improperly calculated the time allocation for the Appellant's IADL needs.

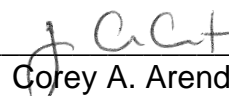
**DECISION AND ORDER**

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

**IT IS THEREFORE ORDERED THAT:**

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

The Department is ordered to initiate a redetermination of the Appellant's eligibility for HHS services beginning ██████████.

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

██████████  
Date Signed: December 13, 2013

Date Mailed: December 13, 2013

  
**Docket No. 2014-7928 HHS**  
**Hearing Decision & Order**

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.