

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. 2014-7934 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)?

FINDINGS OF FACT

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

1. As of ██████████, the Appellant was receiving HHS.
2. On ██████████, a reassessment took place. (Exhibit A, p. 11; Testimony)
3. On ██████████, the Department sent the Appellant an Advance Negative Action notice. The notice indicated the Appellant's HHS payments would be reduced from \$██████████ to \$██████████ effective ██████████, ██████████ due to other adults living in the home. (Exhibit A, pp. 5-11; Testimony)
4. On ██████████, the Appellant requested a hearing regarding the reduction. The request was misfiled and was not discovered until

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- [REDACTED]. (Exhibit A, p. 17; Testimony)
5. On [REDACTED], the Appellant submitted a second request for hearing regarding the [REDACTED], HHS payment reduction. (Exhibit A, p. 4; Testimony)
 6. During the time period in question, the Appellant shared a residence with his sister. (Exhibit A, p. 11)

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.

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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 Department reduced the time allocated for IADL's and increased the time allocated for ADL's. The Department reduced the time allocated for IADL's as the Appellant was sharing a home with another adult (sister). Policy requires that when this situation occurs, IADL's are prorated by one-half.

The worker in this case, left the IADL time the same for the categories of medication and housework and reduced the time for laundry and shopping by 5 minutes and reduced meal preparation by 15 minutes a day.

The reductions for shopping, laundry and meal preparation are less than the half required by policy. The other categories (medication, housework, ADL's) had zero changes or had more time allocated and therefore do not need to be addressed.

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The preponderance of the reliable evidence shows the ASW properly assessed the Appellant's needs for HHS. The evidence available to the DHS at the time of the assessment showed the Appellant was in a shared living arrangement. And therefore, the ASW properly calculated the time allocation for the Appellant's IADL and ADL 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 properly assessed Appellant's HHS needs.

IT IS THEREFORE ORDERED THAT:

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

/s/

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

Date Signed: December 11, 2013

Date Mailed: December 11, 2013

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.