

**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. 2014-7965 HHS

██████████

██████████

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, an in-person hearing was held on ██████████ ██████████ ██████████. Appellant's care provider, appeared and testified on Appellant's behalf. Appellant also testified on her own behalf. ██████████, Appeals Review Officer, represented the Department of Community Health. ██████████, an Adult Services Worker (ASW), and ██████████ ██████████, an Adult Services Supervisor, from the ██████████ County DHS-██████████ Office appeared 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 diabetes, deafness, and osteoarthritis. (Respondent's Exhibit B, page 1).
2. On ██████████, Appellant began receiving HHS in the amount of ██████ hours and ██████ minutes per month, with a total monthly care cost of ██████████. (Respondent's Exhibit A, pages 19-20).
3. Specifically, Appellant was authorized for assistance with the tasks of taking medication, shopping, laundry, housework, and meal preparation. (Respondent's Exhibit A, page 24).

¹ The hearing was originally scheduled to be held by telephone on ██████████ but Appellant subsequently requested an in-person hearing on the record and the matter was rescheduled for ██████████.

██████████
Docket No. 2014-7965 HHS
Decision and Order

4. The tasks of taking medication, shopping, laundry, housework, and meal preparation are all identified as Instrumental Activities of Daily Living (IADLs) by the Department. (Adult Services Manual 101 (11-1-2011) (hereinafter "ASM 101"), page 1 of 4).
5. In ██████████, Appellant started a job at ██████████ and requested that her HHS be cancelled. (Testimony of Appellant's representative; Testimony of ASW ██████████).
6. Appellant's HHS were subsequently terminated, after due notice, on ██████████ (Respondent's Exhibit A, pages 21-22).
7. On ██████████, Appellant reapplied for HHS. (Respondent's Exhibit A, page 12).
8. As part of the application process, Appellant submitted a medical needs form signed by her doctor on ██████████. (Respondent's Exhibit B, page 1).
9. The medical needs form indicated that Appellant only has a medical need for assistance with the tasks of taking medication, shopping, laundry, housework, and meal preparation. (Respondent's Exhibit B, page 1).
10. On ██████████, ASW ██████████ conducted a visit and assessment in Appellant's home with Appellant, her care provider, and a representative from the care provider's agency. (Respondent's Exhibit A, page 11).
11. During that assessment, Appellant requested assistance with the same five IADLS she had previously received assistance with and that were identified on the medical needs form. (Respondent's Exhibit A, page 11; Testimony of ASW ██████████).
12. Appellant also reported that she is able to bathe, groom, dress, toilet, eat, and transfer independently. (Respondent's Exhibit A, page 11; Testimony of ASW ██████████).
13. Appellant did have a single prong/straight cane, but was able to ambulate independently with that cane. (Respondent's Exhibit A, page 11; Testimony of Appellant).
14. On ██████████, the Department sent written notice to Appellant indicating that her application for HHS was being denied as she did not require any hands-on assistance with any Activity of Daily Living (ADL). (Respondent's Exhibit A, page 4).
15. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant

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.

ASM 101 and Adult Services Manual 120 (5-1-2012) (hereinafter "ASM 120") addressed the issues of what services are included in Home Help Services and how such services are assessed.

For example, ASM 101 provides:

Home Help Payment Services

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 if the assessment determines a need at a level 3 or greater.

ASM 101, pages 1-3 of 4

Moreover, ASM 120 states:

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

ADLs and IADLs 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. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater.

See ASM 121, Functional Assessment Definitions and Ranks for a description of the rankings for activities of daily living and instrumental activities of daily living.

ASM 120, pages 2-4 of 5

As described in the above policy, an individual is only eligible to receive HHS in general or with any IADLs in particular if he or she also has a need for assistance with at least one ADL at a level 3 or greater.

The Department found that Appellant has no such need in this case and is therefore ineligible to receive HHS as she requested. Appellant and her representative bear the burden of proving by a preponderance of the evidence that the Department erred in making that decision.

Here, the Department's decision was based on information obtained directly from Appellant and her doctor. The medical needs form submitted by Appellant's doctor indicated that Appellant only has a medical need for assistance with IADLS and ASW ██████████ testified that Appellant only requested assistance with IADLs during the home visit. According to ASW ██████████ Appellant also specifically reported that she was independent in all ADLs while also demonstrating the ability to walk independently. Appellant also worked at a job in the months prior to the application, which also suggests that she does not need assistance with any ADLs.

Docket No. 2014-7965 HHS
Decision and Order

In response, Appellant and her representative testified that, in addition to assistance with IADLs, Appellant's provider also helps her with the ADL of transferring and that Appellant reported such assistance during the assessment. However, this Administrative Law Judge does not find that testimony to be credible given the medical needs form submitted by Appellant's doctor, which fails to identify any such need, and ASW [REDACTED] credible testimony and notes regarding what was requested.

Appellant also noted that she uses a cane for mobility. However, as provided in Adult Services Manual 121 (11-1-2011) (hereinafter "ASM 121") a need for assistance with mobility would only rise to a level 3 on that basis if the applicant needs physical assistance, the use of a walker, or the use of a pronged cane. (ASM 121, page 3 of 4; Respondent's Exhibit A, page 30). Here, it is undisputed that, at most, Appellant only requires the use of a straight cane.

Appellant's representative further testified that he assists Appellant with talking on the telephone and by providing transportation. However, neither of those services are covered by the Home Help Program.

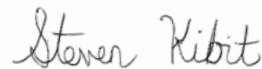
Accordingly, Appellant and her representative have failed to meet their burden of proving that the Department erred. The Department properly found that Appellant has no need for physical assistance with any ADLs and its decision to deny services on that basis must be affirmed.

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 request for HHS.

IT IS THEREFORE ORDERED THAT:

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



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

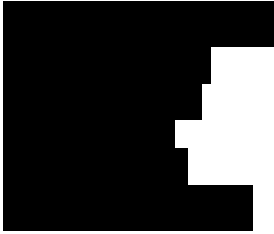
Date Signed: [REDACTED]

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Docket No. 2014-7965 HHS
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.