

**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:

██████████

Docket No. 2014-8474 HHS

Case No. ██████████

Appellant.

_____ /

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 her own behalf. Her witness was her son and provider, ██████████. ██████████, Appeals Review Officer, represented the Department of Community Health (Department). ██████████, Adult Services Supervisor and ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly terminate 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. Appellant is a ██████ year-old Medicaid beneficiary, born ██████████ who has been diagnosed with chronic lower back pain, GAD, depression, and lumbar radiculitis (nerve inflammation). (Exhibit A, pp 6-8; Testimony)
2. On ██████████, the ASW met with Appellant and her provider (son) in Appellant's home to conduct a reassessment. Appellant's provider son and Appellant's daughter live in the home with Appellant. The ASW observed Appellant moving freely around the home without the use of any assistive devices. The ASW also observed Appellant going up and down a flight of stairs without the use of any assistive devices and with no observed difficulty. The ASW reviewed all Activities of Daily Living (ADL's) and Instrumental Activities of Daily Living (IADL's) with Appellant. Appellant reported that she is able to bathe herself but may require assistance getting in and out of the tub about twice a month and that her daughter helps her in those occasions. Appellant also reported that she can dress herself. Appellant reported that she needs assistance with the IADL's of shopping, laundry, housework, and cooking. The ASW

concluded following the assessment that Appellant no longer ranked 3 or higher on any ADL. (Exhibit A, p 14a; Testimony)

3. A Medical Needs Form completed by Appellant's doctor on ██████████ also indicated that Appellant only needs assistance with the IADL's of meal preparation, shopping, laundry, and housework. (Exhibit A, p 6)
4. On ██████████, the Department sent Appellant an Advance Negative Action Notice informing her that her HHS would be terminated effective ██████████. (Exhibit A, pp 9-13; Testimony)
5. Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on ██████████. (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 (ASM) 101, 11-1-11, addresses HHS payments:

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.

*Adult Services Manual (ASM) 101,
11-1-2011, Page 1of 4.*

Adult Services Manual (ASM) 105, 11-1-11, addresses HHS eligibility requirements:

Requirements

Home help eligibility requirements include all of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment (DHS-324) indicating a functional limitation of level 3 or greater for activities of daily living (ADL).
- Appropriate Level of Care (LOC) status.

Necessity For Service

The adult services specialist is responsible for determining the necessity and level of need for home help services based on:

- Client choice.
- A completed DHS-324, Adult Services Comprehensive Assessment. 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.

- Verification of the client's medical need by a Medicaid enrolled medical professional via the DHS-54A. The client is responsible for obtaining the medical certification of need; see ASM 115, Adult Services Requirements.

Adult Services Manual (ASM 120, 5-1-2012), pages 1-4 of 5 addresses the adult services comprehensive assessment:

INTRODUCTION

The DHS-324, Adult Services Comprehensive Assessment is the primary tool for determining need for services. The comprehensive assessment must be completed on **all open independent living services cases**. ASCAP, the automated workload management system, provides the format for the comprehensive assessment and all information will be entered on the computer program.

Requirements

Requirements for the comprehensive assessment include, but are not limited to:

- A comprehensive assessment will be completed on all new cases.
- A face-to-face contact is required with the client in his/her place of residence.
- The assessment may also include an interview with the individual who will be providing home help services.
- A new face-to-face assessment is required if there is a request for an increase in services before payment is authorized.
- A face-to-face assessment is required on all transfer-in cases before a payment is authorized.
- The assessment must be updated as often as necessary, but minimally at the six month review and annual redetermination.
- A release of information must be obtained when requesting documentation from confidential sources and/or sharing information from the department record.
 - Use the DHS-27, Authorization to Release Information, when requesting client information from another agency.
 - Use the DHS-1555, Authorization to Release Protected Health Information, if requesting additional medical documentation; see RFF 1555. The form is primarily used for APS cases.

- Follow rules of confidentiality when home help cases have companion APS cases, see SRM 131 Confidentiality.

Functional Assessment

The **Functional Assessment** module of the **ASCAP** comprehensive assessment is the basis for service planning and for the home help services 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 ranking 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 IADLs if the assessment determined 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.

Time and Task

The specialist will allocate time for each task assessed a rank of 3 or higher, based on interviews with the client and provider, observation of the client's abilities and use of the reasonable time schedule (RTS) as a **guide**. The RTS can be found in ASCAP under the Payment module, Time and Task screen. When hours exceed the RTS rationale **must** be provided.

An assessment of need, at a ranking of 3 or higher, does not automatically guarantee the maximum allotted time allowed by the reasonable time schedule (RTS). **The specialist must assess each task according to the actual time required for its completion.**

Example: A client needs assistance with cutting up food. The specialist would only pay for the time required to cut the

food and not the full amount of time allotted under the RTS for eating.

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.

Example: Client has special dietary needs and meals are prepared separately; client is incontinent of bowel and/or bladder and laundry is completed separately; client's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc.

*Adult Services Manual (ASM) 120, 5-1-2012,
Pages 1-5 of 5*

The ASW testified that on ██████████, she met with Appellant and her provider in Appellant's home to conduct a reassessment. The ASW observed Appellant moving freely around the home without the use of any assistive devices. The ASW also observed Appellant going up and down a flight of stairs without the use of any assistive devices and with no observed difficulty. The ASW reviewed all Activities of Daily Living (ADL's) and Instrumental Activities of Daily Living (IADL's) with Appellant. Appellant

Docket No. 2014-8474 HHS
Decision and Order

reported that she is able to bathe herself but may require assistance getting in and out of the tub about twice a month and that her daughter helps her on those occasions. Appellant also reported that she can dress herself. Appellant reported that she needs assistance with the IADL's of shopping, laundry, housework, and cooking. The ASW concluded following the interview that Appellant no longer ranked 3 or higher on any ADL. The ASW also indicated that a Medical Needs Form completed by Appellant's doctor on [REDACTED] also indicated that Appellant only needs assistance with the IADL's of meal preparation, shopping, laundry, and housework. The ASW testified that on [REDACTED], she sent Appellant an Advance Negative Action Notice informing her that her HHS would be terminated effective [REDACTED].

Appellant testified that she needs assistance getting in and out of the bath and someone to help pull her up when she is sitting or lying down. Appellant indicated that she spends 75% of her time in bed and she will never recover from her bad back. Appellant indicated that she is in constant pain. Appellant indicated that she has since obtained an updated 54a form from her doctor and that the new form indicates that she does need assistance with ADL's. Appellant explained that she was able to go up and down the stairs during the assessment without the use of any assistive device because the stairs have a wall and a railing that she can hang on to. Appellant also explained that her daughter does help her in and out of the tub when she is there, but if she is not there, her son/provider helps her.

Based on the evidence presented, Appellant has failed to prove, by a preponderance of evidence, that the termination of her HHS was inappropriate. When interviewed, Appellant indicated that she was independent in all of her ADL's. While Appellant did indicate that she needs assistance in and out of the tub, she also indicated that she only needs such assistance once or twice a month and that her daughter, who lives in the home with her, assists her with this task on those rare occasions. Additionally, the ASW observed Appellant ambulate up and down the stairs without the use of any assistive devices during the reassessment, so her claim of needing assistance in and out of the tub is not very credible. Furthermore, the 54a Medical Needs form which Appellant obtained after the decision to terminate her HHS was made is not relevant here because the ASW did not have the form to consider when she made her decision. Appellant can always request another assessment.

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 when she terminated Appellant from the HHS program. The ASW provided credible, detailed testimony regarding her observations of, and discussions with, Appellant. Accordingly, the termination of Appellant's HHS is upheld.

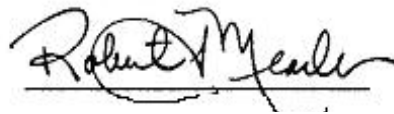
[REDACTED]
Docket No. 2014-8474 HHS
Decision and Order

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 terminated Appellant's HHS.

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

[REDACTED]
cc:

[REDACTED]

Date Signed: November 27, 2013

Date Mailed: November 27, 2013

***** 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.