

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

Laidler, Jalen,

Docket No.: 15-000005

Case No.: [REDACTED]

Appellant

_____ /

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon Appellant's request for a hearing. After due notice, a telephone hearing was held on March 12, 2015, from Detroit, Michigan. Participants included the above-named Appellant, [REDACTED], Appellant's mother and home provider, testified and appeared as Appellant's authorized hearing representative (AHR). Participants on behalf of the Department of Community Health (DCH) included [REDACTED], specialist, and [REDACTED] supervisor, and [REDACTED], appeals review officer.

ISSUE

The issue is whether DCH properly assessed Appellant's ongoing Home Help Services (HHS) eligibility.

FINDINGS OF FACT

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

1. Appellant was an ongoing HHS recipient.
2. On [REDACTED], DCH performed an assessment of Appellant's ongoing HHS needs resulting in a reduction of the following services: wound care, catheterization, skin care, range of motion exercises, dressing, and bowel program.
3. DCH reduced Appellant's HHS eligibility, effective 1/2015, without sending a Notice of Case Action.
4. On [REDACTED], Appellant requested a dispute concerning redetermined HHS eligibility.

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5. DCH reinstated Appellant's previous HHS eligibility for 1/2015 and 2/2015 due to their failure to send notice of the HHS eligibility reduction.
6. On ██████████ DCH mailed Appellant an Advance Negative Action Notice, effective 3/2015, informing Appellant of a reduction in HHS eligibility.

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. DCH policies regulating the MA program are contained in the Adult Services Manual.

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.

Appellant requested a hearing to dispute a reduction in HHS eligibility. DHS presented Appellant's assessments of needs from 2014 and 2015. The 2014 assessment listed Appellant's HHS needs before the threatened reduction in HHS eligibility. The 2015 assessment listed Appellant's most recently assessed needs. Reductions and termination of services included the following:

Service	2014		2015	
	time/day	days/week	time/day	days/week
Catheters	:40	7	0	0
Bowel program	:45	7	0	0
Skin care	:30	7	0	0
ROM exercise	:30	7	0	0
Wound care	1:00	7	0	0
Dressing	:20	7	:18	7

Most reductions of Appellant's needs concerned complex care. Complex care refers to conditions requiring intervention with special techniques and/or knowledge. ASM 120 (12/2013), p. 7. These complex care tasks are performed on client's [sic] whose diagnoses or conditions require more management. *Id.* The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform. *Id.* Complex care needs include the following: eating and feeding, catheters or legs bags, colostomy care, bowel program, suctioning, specialized skin care, range of motion exercises, peritoneal dialysis, wound care, respiratory treatment, ventilators, and injections. *Id.*

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Medical documents were not presented by DHS or Appellant. Undisputed testimony concerning Appellant's medical history was presented.

Appellant was shot in 10/2012. Appellant's gunshot wound caused nerve damage, including spinal damage. Appellant was hospitalized for 3 months before attending physical rehabilitation. Appellant is currently wheelchair bound and has no use of his hands due to nerve damage.

DCH eliminated Appellant's catheter needs. Appellant's mother testified that her son has little-to-no ability to control his bladder. Appellant's mother testified that her son experiences "leakage", requiring her son to wear diapers. Appellant's mother testified that her son's natural output is very small and that he requires 4 daily catheterizations to clear his bladder. To support her testimony, Appellant's mother produced a catheter from her purse. Appellant's mother's testimony was credible. Based on the presented evidence, it is found that DCH improperly ceased Appellant's HHS eligibility concerning catheterization.

DCH increased Appellant's time allotted for toileting but eliminated Appellant's bowel program needs. Appellant's mother testified that her son has ongoing difficulty controlling his bowels. Appellant's mother testified that her son takes a stool softener and occasionally requires a suppository. DCH testimony conceded that Appellant is eligible for the bowel program services if he requires suppositories. Based on the presented evidence, it is found that DCH improperly ceased Appellant's HHS eligibility concerning bowel program.

Appellant's mother's testimony estimated that Appellant required 3 suppositories in the last 30 days. Appellant's mother's testimony implied that Appellant's bowel control, though far from ideal, has improved. Appellant's mother's testimony was suggestive that Appellant's need for suppositories sometimes exceeds 3 times per month. Based on the presented evidence, Appellant is entitled to 10 minutes per week for bowel program needs.

DCH reduced Appellant's skin care and wound care needs to zero. Appellant's mother testified that her son suffered a severe buttocks bedsore during his 2012 hospitalization. Appellant's mother testified that her son's wound was so serious that she and her son consulted a plastic surgeon for repair. Appellant's mother testified that Appellant still has a wound requiring daily care. Even the most serious of bedsores do not typically require regular care for two years. Without medical documentation to verify a need for ongoing care, a need for wound care or specialized skin care cannot be found.

During the hearing, DCH was asked which reductions in services occurred. Range of motion exercises and dressing were not stated as reduced services. Thus, no testimony was taken concerning the amount of time spent on Appellant's exercises or dressing.


Evidence of medical improvement affecting Appellant's range of motion or his ability to dress was not presented. It is found that DCH improperly reduced Appellant's dressing and range of motion exercise needs. Appellant will be found eligible for the same range of motion and dressing needs as assessed by DHS in 2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DCH improperly assessed Appellant's HHS eligibility. It is ordered that DCH redetermine Appellant's HHS eligibility, effective 3/2014, subject to the following needs:

- a. add 40 minutes of daily catheter assistance
- b. add 10 minutes of weekly bowel program assistance
- c. add 30 minutes of daily range of motion exercise assistance; and
- d. update Appellant's daily dressing needs to 20 minutes per day.

The actions taken by DCH are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Director, Nick Lyon
Michigan Department of Community Health

Date Signed: 3/16/2015

Date Mailed: 3/16/2015

CG/hw

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.