

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
P.O. Box 30763, Lansing, MI 48909
Phone: (517) 335-3997; Fax: (517) 373-4147

IN THE MATTER OF:

██████████
Appellant
_____ /

CASE INFORMATION

Docket No.: 15-000350-HHS
Case No.: ██████████
Appellant:
██████████
Respondent:
Department of Community Health

HEARING INFORMATION

Hearing Date: March 25, 2015
Start Time: 11:00 AM
Location
In Person at Agency Office
Oakman Adult Services
3040 W. Grand Blvd., Suite L450
Detroit, MI 48202

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 Appellant's request for a hearing.

After due notice, a hearing was held on March 25, 2015. Appellant appeared and testified on his own behalf. ██████████ also appeared as a witness. ██████████, Appeals Review Officer, of the Department of Community Health represented the Department. ██████████ INS, Adult Services Specialist, and ██████████, Adult Services Supervisor, from the Wayne County Department of Health and Human Services testified as witnesses for the Department.

ISSUE

Did the Department properly find that the Appellant did not require payment for Home Help Services for the Activity of Daily Living for Mobility?

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 Medicaid beneficiary who has been diagnosed with neuropathy and High Blood Pressure. Exhibit A p. 9
2. On November 19, 2014 the Department completed a home visit and met with the Appellant and completed a functional assessment.

3. On November 20, 2014 the Department sent the Appellant an Advance Negative Action Notice informing him that Home Help Services would be reduced effective December 8, 2014. As part of the functional assessment, the need for medication, mobility and meal preparation were reduced. The Department determined that mobility would no longer be entitled to reimbursement for mobility services
4. In testimony by the Adult Services Specialist ██████████, the Specialist's notes indicate that during the visit she observed the Appellant capable of walking with his cane and was aware that sometimes he used a walker.
5. The Appellant advised the Specialist that he could walk with his cane. The Specialist ██████████ also removed medication assistance which was agreeable to the Appellant and is not part of this appeal. Exhibit 1, p. 4.
6. The Appellant requested a hearing on January 14, 2015 protesting the removal of mobility and the denial of payment for these services. The Appellant further wrote: "I have nerve damage in my right leg after back surgery on September 7, 2001. I have muscle atrophy, numbness and sharp pain. I am taking pain killers daily, I have to use a cane or a walker on occasion." Exhibit 1, 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 private or public agencies.

Regarding the requirements for HHS, Adult Services Manual 115 (5-1-2013), p.2 states:

COMPREHENSIVE ASSESSMENT (DHS-324)

Conduct a face-to-face interview with the client in their home to assess the personal care needs. Complete the DHS-324, Adult Services Comprehensive Assessment which is generated from the Adult Services Comprehensive Assessment Program (ASCAP); see ASM 120, Adult Services Comprehensive Assessment.

As part of the Department's assessment during the home visit the following activities are reviewed. The review includes both Activities of Daily Living and Instrumental Activities of Daily Living. These activities are defined as follow:

Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL) are defined as follows:

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.
Light housecleaning.
ASM 101 (12/1/13) p.2.

ASM 121 sets out the Functional Assessment rankings and definitions for **Activities of Daily Living (ADL)** which include Mobility, and are to provide guidance when completing a comprehensive assessment. The rankings range from 1-5, a rank of 1 requiring no assistance and a rank of 5 requiring total assistance with mobility. In this case the Appellant was ranked a 3. ASM 121 (5/1/13) p. 4.

In this case the Department also utilized ASM 120 which provides a scale to assess the ADL of mobility. In this case the Department, after assessment, found that the Appellant was ranked a 3 needing some assistive technology (cane).

ASM 120 provides a scale to assess **ADLs and IADLs** which in this case was used to assess mobility, it provides:

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 Services payments may only be authorized for needs assessed at the level 3 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 if assessed at a level 3 or greater. ASM 120 (December 1, 2013) p. 1-3.

The Department conducted a home visit on November 19, 2014. During the home visit the Department Specialist observed the Appellant walk a few feet with his cane to retrieve his medications for her review. The Department Specialist also indicated that the Appellant told her he could walk with his cane. The Department Specialist was also advised that he occasionally used a walker. Based upon these observations and statements provided to her, the Department Specialist determined the ranking for mobility should be 3 and that an assistive device was required, but that services for assistance were not required and would be no longer paid for by the Department because Appellant did not require human assistance and could walk with his cane. This was also based on the ranking of mobility under ASM 121 above which found minimal hands-on assistance was required. It is also noted that the Appellant was not using a three-prong cane when observed during the assessment.

The Department did acknowledge that Appellant needed assistance with transferring from the tub as his right leg was weak and continued payment these services. As regards the reduction in meal preparation, the Department reduced these services but the Appellant's hearing request does not request review of this issue; therefore, it will not be considered.

After the home visit the Department modified the mobility need of Appellant as the Adult Services Specialist concluded that the Appellant could walk with his cane and thus needed no assistance. At the hearing, the Appellant withdrew his request for hearing regarding the removal of his need for assistance with taking his medications and did not proceed with that issue.

During the home visit and assessment the Department Specialist testified that Appellant sat for most of the home visit on a chair in the kitchen and only walked briefly. The Appellant's provider was present for some of the time and advised the Department Specialist that Appellant also used a walker. The Claimant's request for hearing was also considered when reviewing the evidence, as he stated: "I have nerve damage in my right leg after back surgery on September 7, 2001. I have muscle atrophy, numbness and sharp pain. I am taking pain killers daily, I have to use a cane or a walker on occasion."

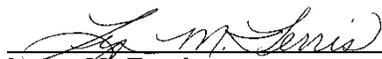
After reviewing the evidence presented and the testimony of the parties present at the hearing, it is determined that the Department correctly assessed the Appellant's mobility in accordance with Department policy referenced above in that he could walk independently with his cane and did not require assistance with mobility and thus was not entitled to payment for these services. Accordingly, the undersigned Administrative Law Judge finds that the Department's Decision must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that the Appellant was not entitled to mobility services and was no longer entitled to be reimbursed for this service.

IT IS THEREFORE ORDERED THAT:

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



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human
Services

Date Signed: April 27, 2015

Date Mailed: April 27, 2015

LMF/cl

cc: ██████████
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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.