

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant

_____ /

Docket No. 15-008594 HHS

Case No. ██████████

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. ██████████, Appellant's niece, appeared as a witness. ██████████, Appeals Review Officer, represented the Department. Vivian Hurst, Adults Services Supervisor and ██████████, Adult Services Worker (ASW), appeared as witnesses for the Department.

ISSUE

Did the Department properly deny Appellant's Home Help Services (HHS) application?

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, born ██████████, who applied for HHS on or about ██████████. (Exhibit A, pp 7, 14; Testimony)
2. Appellant has been diagnosed with chronic back pain, herniated disk, COPD, hypertension and anxiety. (Exhibit A, pp 14-15; Testimony)
3. On ██████████, the ASW went to Appellant's home and completed an initial evaluation with Appellant and her provider. During the assessment, the ASW determined that Appellant did not have a need for hands on assistance with any Activities of Daily Living (ADL). Appellant reported to the ASW that she needed prompting and supervision with bathing because she was afraid of falling, but was otherwise independent with the ADL's of grooming, toileting, transferring, eating and mobility. The ASW observed Appellant transferring and moving about the apartment during the assessment. The ASW indicated that the Appellant did have a single prong cane, but did not use the device while the ASW was present. (Exhibit A, pp 10-13; Testimony)
4. Based on the information available at the time of the assessment, the ASW concluded that Appellant did not have a medical need for hands on assistance with any ADL. (Exhibit A, pp 10-13; Testimony)

5. On [REDACTED], the Department sent Appellant an Adequate Action Notice informing her that her HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL. (Exhibit A, pp 7-9; Testimony)
6. On [REDACTED] Appellant's hearing request was received by the Michigan Administrative Hearing System. (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 101 (12-1-2013) (hereinafter "ASM 101") and Adult Services Manual 120 (12-1-2013) (hereinafter "ASM 120") address the issues of what services are included in Home Help Services and how such services are assessed:

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.

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.
- Light housecleaning.

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 or her daughter agrees to assist her at no charge. 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 5, emphasis added].

* * *

Services not Covered by Home Help Services

Home help services must **not** be approved for the following:

- Supervising, monitoring, reminding, guiding or encouraging (functional assessment rank 2). [ASM 101, page 5 of 5].

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

ADL's and IADL's 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 or her daughter agrees to assist her at no charge. Ms. Smith would be eligible to receive assistance with IADL's if the assessment determines a need at a level 3 or greater. [ASM 120, pages 2-3 of 7, emphasis added].

The ASW testified that on ██████████, she went to Appellant's home and completed an initial evaluation with Appellant and her provider. During the assessment, the ASW determined that Appellant did not have a need for hands on assistance with any Activities of Daily Living (ADL). Appellant reported to the ASW that she needed prompting and supervision with bathing, but was otherwise independent with the ADL's of grooming, toileting, transferring, eating and mobility. The ASW observed Appellant transferring and moving about the apartment during the assessment. The ASW indicated that the Appellant did have a single prong cane, but did not use the device while the ASW was present. The ASW indicated that she also observed Appellant pick up a bat, which the ASW indicated Appellant told her she kept for protection. The ASW testified that, based on the information available at the time of the assessment, she concluded that Appellant did not have a medical need for hands on assistance with any ADL. As such, the ASW indicated that on May 12, 2015, she sent Appellant an Adequate Action Notice informing her that her HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL.

Appellant testified that the ASW was lying about people loitering outside of the home upon her arrival and that the ASW did not give her any respect during the assessment. Appellant indicated that the ASW would not even sit down during the assessment and that she does not own a bat. Appellant indicated that she told the ASW that she was scheduled to have surgery and would need more assistance after the surgery. Appellant admitted that she does not need assistance with transferring or grooming, but might after her surgeries. Appellant testified that she had to put off the surgeries because of the denial of HHS.

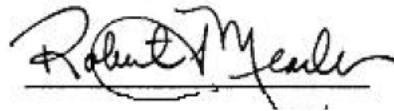
The evidence was not sufficient to establish that Appellant had a need for hands on assistance, functional ranking 3 or greater, with at least one ADL, based on the information available to the ASW for this assessment. The ASW provided credible, detailed testimony regarding her discussion of ADL's with the Appellant and her observations of Appellant during the assessment. Appellant admitted that she does not currently need hands on assistance with any ADL's, but will need such assistance after her surgeries. The ASW explained to Appellant that she cannot approve HHS based on a future need, but Appellant can reapply for HHS if her needs change. Accordingly, the denial of Appellant's HHS application is upheld.

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 HHS application based on the available information.

IT IS THEREFORE ORDERED that:

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



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

cc:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

***** 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.