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:

[redacted],

Docket No. 15-016246 HHS
Case No. [redacted]

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*., and upon Appellant's request for a hearing.

After due notice, a telephone hearing was held on [redacted]. Appellant and her witnesses, [redacted], provider, and Appellant's father, [redacted], appeared and testified on Appellant's behalf. [redacted], Appeals Review Officer, and [redacted], Adult Services Investigator, appeared to testify on behalf of the Michigan Department of Health and Human Services (Department). The Adult Service worker who actually worked on this case before [redacted] was not present for the hearing and was not made available for the hearing.

State's Exhibits 1-21 were admitted as evidence without objection.

ISSUE

Did the Department properly propose to suspend Appellant's Home Help Services (HHS) payments due to a failure to submit provider logs in a timely manner?

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 was receiving HHS through the Department at all times relevant to this matter.

2. On [redacted], the prior Department caseworker attempted a home call with Appellant and discovered that Appellant no longer lived at the address. The caseworker called Appellant on the telephone and Appellant indicated that she moved in [redacted]. Appellant did not report her

change of address to the Department caseworker. State's Exhibit A page 8

3. On [redacted], [redacted], [redacted] County Adult Services Worker, sent Appellant an Advance Negative Action Notice informing her that HHS would be suspended effective [redacted] for failure to submit provider logs as required by Program Policy. State's Exhibit A page 5

4. On [redacted], the Department caseworker conducted a redetermination review and determined that Appellant had a two month old baby. The case worker noted that logs for [redacted] were still pending and the case was to be transferred to Macomb County when the logs were acquired.

5. On [redacted], the Michigan Administrative Hearing System (MAHS) received Appellant's request for hearing, protesting the proposed suspension of HHS payments. Appellant stated: My worker told me not to worry about this page. I never received the provider logs since [redacted] and my caregiver hasn't received a payment since [redacted]. State's Exhibit A page 4

6. On [redacted], a transfer home visit was conducted by the new caseworker.

7. On [redacted], an Advance Negative Action Notice was mailed to Appellant, informing Appellant that no further HHS payments would be authorized and that the case would be closed because Appellant no longer needed services and gave the caseworker permission to close the case.

8. On [redacted], Appellant's HHS case closed.

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 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.
>
> *Adult Services Manual (ASM) 120*

The provider **must** keep a log of the services provided on the DHS-721, Personal Care Services Provider Log and submit it on a quarterly basis. The log must be signed by both the provider and client or the client's representative to verify that the services approved for payment were delivered. A separate log is required for each provider. The log must be received within 10 business days after the last service date on the log. Failure to do so will result in suspension of payment.

The adult services specialist must initial and date the log upon receipt to demonstrate review of the log. The log is required to be retained in the client's case record. Incomplete logs must be returned to the client/provider for completion.

Agency/business providers have the option of submitting invoices instead of the DHS-721, Provider Log. Each invoice **must** specify the following:

- The service(s) provided, and
- The date(s) of service.

ASM 135

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. The medical professional must hold one of the following professional licenses:

- Physician (M.D. or D.O.)
- Physician Assistant
- Nurse Practitioner
- Occupational Therapist.
- Physical therapist. ASM 105, page 3 4-4-2015, ASB 2015-003

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.

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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) 105,
4-01-2015, Pages 1-3 of 3

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

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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.

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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 adjoined 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, 12-1-2013
Pages 1-5 of 5

Certain services are not covered by HHS. ASM 101 provides a listing of the services not covered by HHS.

Services not Covered by Home Help

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

- Supervising, monitoring, reminding, guiding, teaching or encouraging (functional assessment rank 2).
- Services provided for the benefit of others.
- Services for which a responsible relative is **able** and **available** to provide (such as house cleaning, laundry or shopping).
- Services provided by another resource at the same time (for example, hospitalization, MI-Choice Waiver).
- Transportation - See Bridges Administrative Manual (BAM) 825 for medical transportation policy and procedures.
- Money management such as power of attorney or representative payee.
- Home delivered meals.
- Adult or child day care.
- Recreational activities. (For example, accompanying and/or transporting to the movies, sporting events etc.)

Note: The above list is not all inclusive.

Adult Services Manual (ASM) 101, 12-01-2013,
Pages 3-4 of 4.

A service plan must be developed for all independent living services cases. The service plan is formatted in ASCAP and interacts with the comprehensive assessment.

The service plan directs the movement and progress toward goals identified jointly by the client and specialist. **Service plans are to be completed on all new cases, updated as often as necessary, but minimally at the six month review and annual reassessment. ASM 130, pages 1-2.**

> Service plan development practices will include the use of the following skills:
>
> - **Listen actively** to the client.
> - Encourage clients to **explore options** and select the appropriate services and supports.
> - Monitor for **congruency** between case assessment and service plan.
> - Provide the necessary supports to **assist** clients **in applying for resources**.
> - Continually **reassess** case planning.
> - Enhance/preserve the client's **quality of life**.
>
> **Monitor and document** the status of all **referrals** to waiver programs and other community resources **to ensure quality outcomes**.
>
> ASM 130, page 2

In the instant case, the Department representative testified on the record that the third quarter logs were documented as received by the Department. Appellant was not sent the fourth quarter logs because the caseworker failed to send them to Appellant, but the Adult Services Supervisor will provide Appellant's Representative with the fourth quarter logs at the conclusion of the hearing.

Appellant and her provider testified that she mailed the logs in to the Department as is required by policy and that she did not receive payment for the service provided from [redacted] to [redacted]. This Administrative Law Judge determines that Appellant's testimony is not credible, as her hearing request directly contradicts her testimony.

The Department caseworker indicated that she conducted a home visit with Appellant on [redacted]. The caseworker observed that Appellant was able to walk; she came down steps and sat on the porch. The caseworker alleged that Appellant told her that she had been trying to close her HHS case over a year because she no longer needed the services. She had been healthy for the past year. Appellant was able to take care of her children, including her four month old. State's Exhibit A page 15.

The caseworker observed that Appellant was able to ambulate around the furniture. She bent over to pick up items off of the floor. She transferred independently. She indicated that she had been at her mother's house doing laundry. Appellant gets up in the morning to get her two children off to school. She indicated that she can change her baby's diapers, clean her, and feed her. State's Exhibit A page 14

The evidence on the record indicates that the home assessment was properly conducted. When the Adult Services Worker went to the home visit on [redacted] she was unable to determine that Appellant needed help with ADLs. She indicated that Appellant has full use of legs, arms and hands and she did not demonstrate a need for assistance with ADLs.

The Department has established by the necessary competent, substantial and material evidence on the record that it was acting in compliance with Department policy when it cancelled claimant's HHS case based upon the fact that Appellant did not establish a need for assistance with ADLs at the home assessment. Appellant has not established a medical necessity for assistance with ADLs. The Department's closure of the case must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department has established by a preponderance of the evidence that Appellant failed to provide provider logs and that Appellant failed to establish continuing medical necessity for HHS.

IT IS THEREFORE ORDERED THAT:

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

Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Signed: November 19, 2015

Date Mailed: November 20, 2015

LYL/[redacted]

cc: [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.