

**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. 15-017898 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 provider, appeared as a witness. ██████████, Appeals Review Officer, represented the Department. ██████████, 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 11-12; Testimony)
2. Appellant has been diagnosed with lumbar radiculopathy. (Exhibit A, p 11; 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 assistance with bathing and grooming because she cannot get in and out of the tub or wash her hair due to a bilateral wrist fracture, however, the ASW noted that Appellant was able to move about the apartment freely and was able grasp things with her hands without the use of any assistive devices. Appellant also informed the ASW that she needed assistance with the Instrumental Activities of Daily Living (IADL's) of housework, laundry, shopping, errands and meals. (Exhibit A, pp 8-9; Testimony)

4. A Medical Needs Form completed by Appellant's doctor also indicated that Appellant only needs assistance with IADL's. (Exhibit A, p 11; Testimony)
5. 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, p 12; Testimony)
6. On ██████████, the Department sent Appellant an Adequate Action Notice indicating that the HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL. (Exhibit A, pp 5-7; Testimony)
7. On ██████████, 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 August 20, 2015, she went to Appellant's home and completed an initial evaluation with Appellant and her provider. The ASW indicated that during the assessment, she determined that Appellant did not have a need for hands on assistance with any Activities of Daily Living (ADL). The ASW testified that while Appellant reported to the ASW that she needed assistance with bathing and grooming because she cannot get in and out of the tub or wash her hair due to a bilateral wrist fracture, the ASW noted that Appellant was able to move about the apartment freely and was able grasp things with her hands without the use of any assistive devices. The ASW testified that Appellant also informed her that she needed assistance with the Instrumental Activities of Daily Living (IADL's) of housework, laundry, shopping, errands and meals. The ASW indicated that a Medical Needs Form completed by Appellant's doctor also indicated that Appellant only needs assistance with IADL's. The ASW testified that based on the assessment and the medical needs form she sent Appellant an Adequate Action Notice indicating that the HHS application was denied based on the policy requiring a need for hands on assistance with at least one ADL.

Appellant testified that the doctor who filled out her Medical Needs Form was not her primary care physician (PCP) and did not understand her conditions. Appellant

indicated that she has since gone back to her PCP and obtained a new Medical Needs Form that she wished to present at the hearing. Appellant indicated that she has had a bilateral fracture in her wrist since 1999, which prevents her from pushing herself out of the tub. Appellant testified that she informed the ASW of this fact during the assessment, but that it appears nowhere in the ASW's narrative of the meeting.

Appellant was informed that this hearing was to determine whether the Department's decision was proper at the time it was made based on the information available at that time, so a new Medical Needs Form would not be relevant to these proceedings since the ASW did not have an opportunity to review that form prior to making a decision.

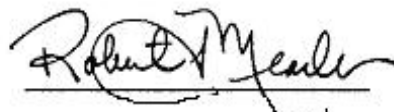
The evidence was not sufficient to establish that Appellant had a need for hands on assistance, functional ranking 3 or greater, with at least one ADL, based on the information available to the ASW for this assessment. The ASW provided credible, detailed testimony regarding his discussion of ADL's with Appellant and her observations of Appellant during the assessment. Furthermore, a Medical Needs Form completed by Appellant's doctor indicated that Appellant only needs assistance with IADL's. Accordingly, the denial of Appellant's HHS application is upheld. If Appellant really has a medical need for assistance with bathing and grooming, she can use the new Medical Needs Form she obtained and submit a new application for HHS. However, based on the information available to the ASW at the time the decision in this matter was made, that decision was proper.

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

[REDACTED]
Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]
Docket No. 15-017898 HHS
Decision and Order

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.