

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**
P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-008272 HHS

██████████

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 hearing was held on ██████████. Rukmal Fernando, Appellant's son, appeared and testified on Appellant's behalf. ██████████ Appeals Review Officer, represented the Department of Health and Human Services (DHHS or Department). ██████████, Adult Services Worker (ASW), testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for additional Home Help Services (HHS)?¹

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 Parkinson's disease; hypertension; pre-diabetes; and an unsteady gait. (Exhibit A, pages 12, 14).
2. Appellant applied for HHS and was approved for ██████████ of such services per month, with an open date of ██████████. (Exhibit A, pages 13, 21; Testimony of ASW Reynolds).
3. On ██████████, Appellant's home help provider called ASW Reynolds in order to request additional services. (Exhibit A, page 19).
4. On ██████████, ASW Reynolds performed a home visit and case

¹The Department also sent an advance notice of suspension in this case, but the parties confirmed during the hearing that any suspension is resolved and that the sole issue in dispute is the denial of additional HHS.

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review with Appellant and her provider in Appellant's home. (Exhibit A, page 9).

5. Based on reports regarding Appellant's falls and tremors, ASW Reynolds decided to increase Appellant's HHS, retroactive to January. (Exhibit A, page 19; Testimony of ASW Reynolds).
6. On [REDACTED], the Department sent Appellant written notice that, effective [REDACTED], her HHS were increased to [REDACTED] per month. (Exhibit A, pages 7-8).
7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant and her representative in this matter. (Exhibit A, pages 4-6).
8. In that request, Appellant's representative writes that, while they appreciate the assistance provided by the State of Michigan, they believe additional HHS should have been approved since Appellant cannot be left alone; she goes to an Adult Senior Center during the day between 9:00 a.m. and 3:00 p.m.; the cost of care to attend the Senior Center is \$825.00 per month; and the current amount approved by the Department is insufficient to cover those expenses. (Exhibit A, page 5).

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) addresses the issues of what services are included in Home Help Services and how such services are assessed:

PROGRAM DESCRIPTION

Independent living services offer a range of payment and nonpayment related services to individuals who require advice or assistance to support effective functioning within their home or the household of another.

* * *

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.

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- Housework.

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.

Note: If an individual uses adaptive equipment to assist with an ADL, and without the use of this equipment the person would require hands-on care, the individual must be ranked a level 3 or greater on the functional assessment. This individual would be eligible to receive home help services.

Example: Mr. Jones utilizes a transfer bench to get in and out of the bathtub which allows him to bathe himself without the hands-on assistance of another. The adult services specialist must rank Mr. Jones a 3 or greater under the functional assessment. Mr. Jones would be eligible to receive home help services.

Assistive technology would include such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and handheld showers.

* * *

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). A responsible relative is defined as an

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individual's spouse or a parent of an unmarried child under age 18.

- 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.

ASM 101, pages 1-3, 5

Here, as discussed above, the Department increased Appellant's HHS to \$ [REDACTED] per month in response to Appellant's request for additional services. ASW Reynolds also testified that the increase was sufficient to meet Appellant's need for assistance with the tasks covered by HHS.

In response, Appellant's representative asserts that additional HHS are still necessary. Specifically he testified that, because Appellant cannot be left alone due to her falls, the family sends her to an Adult Senior Center during the day between 9:00 a.m. and 3:00 p.m. for supervision. Appellant's representative also testified that it costs \$ [REDACTED] per month to send Appellant to the Adult Senior Center and they would use the extra money from the Department to pay for those expenses.

Appellant's representative bears the burden of proving by a preponderance of the evidence that the Department erred in denying additional HHS.

Given the undisputed testimony in this case, Appellant's representative has failed to meet that burden of proof and the Department's decision must therefore be affirmed. Appellant's representative seeks additional HHS to cover the expense of sending Appellant to an Adult Senior Center during the day. However, HHS are only approved for specific assistance with certain ADLs and IADLs by enrolled providers and, per the above policy, HHS cannot be paid for services provided outside the home at an Adult Senior Center; for supervision; or for services provided by people other than the enrolled provider. Requesting that the Home Help Program pay for Appellant's Adult

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Senior Center is inappropriate and the Department properly denied Appellant's request for additional HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that, the Department properly denied Appellant's request for additional HHS.

IT IS THEREFORE ORDERED THAT:

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

Steven Kibit

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[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.