

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

██████████,

Appellant

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**Docket No.** 15-021122 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 the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant personally appeared.

██████████, Appeals Review Officer, represented the Department. ██████████, Adult Services Supervisor, (ASS), 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. At all relevant times, Appellant has been and continues to be beneficiary of the welfare Medicaid program.
2. Appellant is a ██████ year old male, whose diagnoses include lumbar myositis, sciatica, trapezius myositis, and left hip bursitis. (Exhibit A.11).
3. On ██████ the Department completed an initial assessment at Appellant's residence due to a referral for services with the HHS program. Appellant was present with his sibling/provider. The ASW assessment indicates that Appellant requested assistance with housework, laundry, shopping for food and meal preparation. Appellant indicated that he needed help with yard work, snow removal; he indicated that he is able to bathe, groom, dress, toilet, transfer, eat, move from place-to-place and take medication. (Exhibit A.11-12).

4. On ██████████ the Department received a DHS-54A from Appellant's physician indicating that Appellant did not have any needs for any ADLs. In Section J, the physician indicated that as to whether Appellant can work, the physician indicated that it was "undetermined" at this time. (Exhibit A.13).
5. On ██████████ the Department issued a notice of termination informing Appellant that he is no longer eligible for HHS as policy requires at least one ADL, and did not qualify for the program. (Exhibit A.5).
6. On ██████████, Appellant filed a Hearing Request. (Exhibit A.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.

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.

#### **Medical Need Certification**

Medical needs are certified utilizing the DHS-54A, Medical Needs form and must be completed by a Medicaid enrolled medical professional. Completed DHS-54A or veteran's administration medical forms are acceptable for individual treated by a VA physician; see ASM 115, Adult Services Requirements.

### **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,  
11-1-2011, Pages 2-3 of 3*

Adult Services Manual (ASM) 120, 5-1-12, addresses the 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 must 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.
- Follow 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 IADL's 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.

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 adjoining 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) 101, 11-1-11, addresses 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, 11-1-2011,*  
Pages 3-4 of 4.

### **MEDICAL NEEDS FORM (DHS- 54A)**

The DHS-54A, Medical Needs form must be signed and dated by a medical professional certifying a medical need for personal care services. The medical professional must be an enrolled Medicaid provider and hold one of the following professional licenses:

- Physician (M.D. or D.O.).
- Nurse practitioner.



- Occupational therapist
- Physical therapist.

**Note:** A physician assistant (PA) is not an enrolled Medicaid provider and **cannot** sign the DHS-54A.

The medical needs form is only required at the initial opening for SSI recipients and disabled adult children (DAC). All other Medicaid recipients must have a DHS-54A completed at the initial opening and annually thereafter.

The client is responsible for obtaining the medical certification of need but the form must be completed by the medical professional and not the client. The National Provider Identifier (NPI) number must be entered on the form by the medical provider and the medical professional must indicate whether they are a Medicaid enrolled provider.

The medical professional certifies that the client's need for service is related to an existing medical condition. **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.

If the medical needs form has not been returned, the adult services specialist should follow-up with the client and/or medical professional.

Do **not** authorize home help services prior to the date of the medical professional signature on the DHS-54A.

The medical needs form does not serve as the application for services. If the signature date on the DHS-54 is **before** the date on the DHS-390, payment for home help services must begin on the date of the application. ASM 115, page 1 of 3. 5-1-2013 Effective Date.

Here, the Department argues that Appellant does not meet the criteria for the HHS program based on the in-person assessment, as well as his physician's assessment that did not certify that Appellant had any hands-on needs for the HHS program.

Appellant argues that he should have his services reinstated due to a timely hearing request, that he does need assistance with a number of IADLS, and that he had two toes amputated two weeks ago.

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Regarding Appellant's request for reinstatement, Appellant's case cannot be reinstated as it was never opened and Appellant was never receiving services. The Department stipulated that it caused some of this confusion by issuing an incorrect notice of denial, implying that his case was terminated. The notice that was issued however, does state that Appellant is "not eligible for home help services" based "on the most recent assessment conducted at the initial home visit". Thus, as the actual notice essentially contained information stating that Appellant was not eligible, this ALJ finds that the issuance of the incorrect notice was harmless error. Moreover, contrary to Appellant's argument, even if he had been receiving services, he would not have been entitled to any continuation as he did not file a hearing request within the 11 day period.

As to Appellant's arguments that he should be entitled HHS program on the basis of needs with IADLs, this is contrary to policy-as noted above, he must show a need with ADLs to be eligible. In addition, the HHS program is for in-home needs; outdoor yard work is not an allowable services.

As to Appellant's request due to having surgery 2 weeks prior to the hearing, this ALJ is not allowed to take into account any evidence that was not in existence at the time the Department made its determination.

As noted above, federal and state law does not allow for the issuance of an HHS grant absent documentation showing that an individual meets the eligibility requirements for the HHS program. Among those is the requirement that Appellant have at least 1 ADL ranked at a 3 or greater. More specifically, as noted above, hands-on requires a showing of at least 1 ADL that is actually a hands-on chore.

In the alternative, policy further requires medical certification for eligibility. The DHS-54A the Department relied on in this case does not certify any ADLs. Thus, the Department cannot open an HHS where the beneficiaries file verification required by federal and state law.

For these reasons, and for the reasons stated above, this ALJ must uphold the denial based on the available evidence.

Appellant understands that he may reapply.

[REDACTED]  
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**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 evidence of record.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.



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Spodarek  
Administrative Law Judge  
for Nick Lyon, Director  
Michigan Department of  
Health and Human Services

Date Mailed: [REDACTED]

JS/cg

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.