



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR



Date Mailed: July 25, 2016  
MAHS Docket No.: 16-007310  
Agency No.: [Redacted]  
Petitioner: [Redacted]

**ADMINISTRATIVE LAW JUDGE:** Corey Arendt

**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 Petitioner's request for a hearing.

After due notice, a hearing was held on July 21, 2016. Petitioner appeared on her own behalf and offered testimony. [Redacted], Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). [Redacted], Adult Services Worker (ASW), appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing summary

**ISSUE**

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

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On or around May 6, 2016, Petitioner requested HHS. (Exhibit (Ex) A, p. 15.)
2. On May 10, 2016, the Department sent the Petitioner an Adequate Action notice. The notice indicated the Petitioner's request for HHS would be denied if they did not receive an application by May 24, 2016. (Ex A, p. 8; Testimony).
3. At some point in time prior to May 24, 2016, the Department received from the Petitioner an application for HHS. (Testimony).

4. On June 2, 2016, the ASW went to the Petitioner's home to conduct an in-home assessment. Only the Petitioner and the Petitioner's 1 year-old grandson were present for the assessment. During the assessment, the ASW asked the Petitioner all of the questions on her assessment checklist sheet including the Petitioner's use of adaptive of equipment and reasons why the Petitioner needed HHS. (Ex A, p. 16; Testimony).
5. During the assessment, the Petitioner indicated she did not use or have adaptive equipment and indicated that she has depression and some shoulder pain but that she didn't know why she needed help, she just did. (Ex A, p. 16; Testimony).
6. During the assessment, the Petitioner requested assistance with caring for her son. (Ex A, p. 16; Testimony).
7. On June 3, 2016, the ASW determined the Petitioner did not have a need for HHS based upon the June 2, 2016 assessment. (Ex A, p. 16; Testimony).
8. On June 3, 2016, the Department sent the Petitioner an Adequate Action notice. The notice indicated the Petitioner's request for HHS was being denied as a result of not having a medical condition that required HHS. (Ex A, pp. 11-13; Testimony).
9. On June 9, 2016, the Michigan Administrative Hearings System received from the Petitioner a request for a hearing. (Ex A, p. 6).

### **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) 101 and ASM 120 address the issues of what services are included in HHS and how such services are assessed. For example, ASM 101 provides:

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.
- 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 if assessed at a level 3 or greater.

**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.

**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**

- 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 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, 12/1/2013  
Pages 1-3, 5 of 5*

Moreover, ASM 120 states:

### **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**

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 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 if assessed at a level 3 or greater.

**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 [sic] 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 includes such items as walkers, wheelchairs, canes, reachers, lift chairs, bath benches, grab bars and hand held showers.

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.

### **Complex Care Needs**

Complex care refers to conditions requiring intervention with special techniques and/or knowledge. These complex care tasks are performed on clients whose diagnoses or conditions require more management. The conditions may also require special treatment and equipment for which specific instructions by a health professional or client may be required in order to perform.

- Eating or feeding assistance.
- Catheters or leg bags.

- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Dialysis (In-home).
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the complex care guidelines on the adult services home page.

### **Time and Task**

The specialist will allocate time for each task assessed a rank of 3 or greater, 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, a rationale **must** be provided.

An assessment of need, at a ranking of 3 or greater, 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 (IADL) 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.

*ASM 120, 12/1/2013  
Pages 2-6 of 7*

Pursuant to the above policies, the Department denied the Petitioner's HHS request. The ASW testified that the Petitioner was alone watching her █ year old grandson at the time of the assessment and that when the Petitioner was asked why she needed assistance the Petitioner could not provide a response and the fact the ASW observed the Petitioner moving about without assistance and the Petitioner indicating she did not have and did not use adaptive equipment.

The Petitioner insisted her son was home during the assessment and that he was responsible for watching her █ year old grandson. The Petitioner did not present any evidence to corroborate this statement. Additionally, if that was the case, the Petitioner did not provide a plausible explanation as to why she needed assistance in caring for her grandson.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of evidence, that the denial of HHS was inappropriate. As such, the evidence was not sufficient to establish that Petitioner 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 when the Department denied the Petitioner's request. Accordingly, the HHS denial is affirmed.

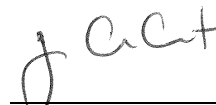
**DECISION AND ORDER**

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

**IT IS, THEREFORE, ORDERED** that:

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

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Corey Arendt  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30763  
Lansing, Michigan 48909-8139

**Agency Representative**

[REDACTED]

**Petitioner**

[REDACTED]

**DHHS Department Rep.**

[REDACTED]

**DHHS -Dept Contact**

[REDACTED]

**DHHS-Location Contact**

[REDACTED]