



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: March 13, 2024
MOAHR Docket No.: 24-001400
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; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on March 12, 2024. [REDACTED] Petitioner, appeared on her own behalf. Florence Scott-Emuakpor, Appeals Review Officer, appeared on behalf of Respondent, the Michigan Department of Health and Human Services (Department). Genia Boynton, Adult Services Worker, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

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

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 November 13, 2023, Petitioner requested HHS benefits. (Exhibit A, p 19.)
2. On December 15, 2023, an in-home assessment was conducted. During the assessment, Petitioner identified two pieces of adaptive equipment. The first one being a bath chair and the second being a toilet chair. Petitioner reported she was able to independently care for each of own Activities of

Daily Living (ADL) and needed assistance with Instrumental Activities of Daily Living (IADL). Petitioner was observed ambulating and transferring without the need for hands on assistance. (Exhibit A, p 21; Testimony.)

3. On December 28, 2023, the Department sent Petitioner a Negative Action Notice. The notice indicated the assessment conducted did not identify a requirement for hands on assistance with a single ADL. (Exhibit A, p 22; Testimony.)
4. Petitioner's last medical needs form indicates a need for assistance with the activities of bathing and dressing along with several IADL's. (Exhibit A, p 12.)
5. On February 14, 2024, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit A, p 7.)

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.

The Adult Services Manual (ASM) address issues of what services are included in Home Help Services and how such services are assessed:

ASM 101 AVAILABLE SERVICES

Payment Services Home Help

Home help services are non-specialized personal care service activities provided under the home help 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 worker.

Home help 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) ranked 3 or higher or complex care need 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.

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 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.¹

ASM 105 ELIGIBILITY CRITERIA

GENERAL

¹ ASM 101, April 1, 2018, pp 1-2, 5.

Requirements

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Appropriate program enrollment type (PET) code.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for at least one activity of daily living (ADL).

Certification of Medical Need

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.

Either the DHS-54A or veterans administration medical form are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

Need for Service

The adult services worker (ASW) is responsible for determining the necessity and level of need for Home Help services based on all of the following:

- Client choice.

- A completed MDHHS-5534, Adult Services Comprehensive Assessment. An individual must be assessed with at least one activity of daily living (ADL) at a level of 3 or greater to be eligible to receive Home Help services.²

ASM 115 ADULT SERVICES REQUIREMENTS

MDHHS-5534, ADULT SERVICES COMPREHENSIVE ASSESSMENT

Conduct a face-to-face interview with the client in their home to assess the personal care needs. Complete the MDHHS-5534, Adult Services Comprehensive Assessment, which is generated from MiAIMS; see ASM 120, Adult Services Comprehensive Assessment.

CONTACTS

The ASW must, at a minimum, have a face-to-face interview with the client, prior to case opening, and then every six months in the client's home for the review.³

ASM 120 ADULT SERVICES COMPREHENSIVE ASSESSMENT

OVERVIEW

The MDHHS-5534, Adult Services Comprehensive Assessment, is the primary tool for determining a client's need for services. The comprehensive assessment must be completed on all open Home Help services cases. The Michigan Adult Integrated Management System (MiAIMS) provides the format for the comprehensive assessment and all information must be entered in the computer program.

² ASM 105 June 1, 2020, pp 1, 3.

³ ASM 115, Adult Services Requirements, May 1, 2023, pp 4-5.

Functional Tab

The Functional tab under the Assessment module in MiAIMS is the basis for service planning and for the Home Help services payment. Document the client's abilities and needs in the Functional tab 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 level 3 ranking or greater.

An individual must be assessed with at least one activity of daily living ranked 3 or higher or a complex care need 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 tab in MiAIMS. This individual would be eligible to receive Home Help services⁴

The parties agreed the Petitioner uses the bath chair to enable her to bathe and further uses a toilet chair for toileting. The parties also agreed the assessment should be reconducted to take into consideration the adaptive devices, as it does not appear the Department considered the applicable portions of ASM 120; and Petitioners need to use adaptive equipment to enable her to perform her ADL's.

Accordingly, the denial of Petitioner's HHS request was improper, and the decision must be reversed.

⁴ ASM 120, Adult Services Comprehensive Assessment, May 1, 2023, pp 1-4.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department improperly denied Petitioner's request for HHS benefits based on the information made available at the time of the decision.

IT IS, THEREFORE, ORDERED that:

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

The Department is ordered to rescind the negative action notice and to conduct a new assessment to determine Petitioner's eligibility for HHS benefits. The assessment should be conducted within 10 days of this order being issued; and if the Department determines the Petitioner is eligible for HHS benefits, they should issue retroactive benefits if otherwise eligible and qualified.

CA/pe



Corey Arendt

Administrative Law Judge
for Elizabeth Hertel, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

Via Electronic Mail:

Agency Representative

Florence Scott-Emuakpor MDHHS
Appeals Review Officer
Lansing, MI 48909
ScottF@michigan.gov

DHHS Department Contact

Michelle Martin MDHHS
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Lansing, MI 48933
MDHHS-Home-Help-Policy@michigan.gov

DHHS Location Contact

Sherry Reid MDHHS
Greenview Adult Services District
Wayne County, BSC-r
19340 Greenview Ave., Ste. 200
Detroit, MI 48219
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DHHS Department Representative

Mary Carrier MDHHS
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MDHHS-Appeals@michigan.gov

Via First Class Mail:

Petitioner

[REDACTED]
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