



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: October 16, 2024
MOAHR Docket No.: 24-009407
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 October 9, 2024. [REDACTED] Petitioner's Authorized Hearing Representative, appeared and offered testimony on Petitioner's behalf. [REDACTED] Petitioner. appeared as a witness. Leigha Klaver, Appeals Review Officer, appeared on behalf of the Respondent, the Department of Health and Human Services (Department). Barbara McLemore, Adult Services Worker, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing summary

ISSUE

Did the Department properly determine the start date of the Petitioner's Home Help Services (HHS); and further, did the Department properly allocate the appropriate and medically necessary level of 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 May 30, 2024, the Department sent Petitioner an Approval Notice, approving Petitioner for 27 hours and 18 minutes of HHS effective May 30, 2024. (Exhibit A; Testimony.)

2. On July 5, 2024, the Department sent Petitioner an Approval Notice, approving [REDACTED] as Petitioner's provider effective May 30, 2024. (Exhibit A; Testimony.)
3. On July 11, 2024, the Petitioner contacted the Department and indicated her Provider [REDACTED] would be working for an agency instead and further agreed to forgo payments while the transition period took place. (Exhibit A; Testimony.)
4. On July 19, 2024, the Department performed a new assessment of Petitioner. (Exhibit A; Testimony.)
5. Following the July 19, 2024, assessment, the Department determined the Petitioner qualified for additional bathing with an increase from 10 minutes a day 7 days a week to 15 minutes a day 7 days a week; grooming was added to the chart with an allotment of 5 minutes a day 7 days a week and medication was added to the chart with 2 minutes a day 7 days a week. (Exhibit A; Testimony.)
6. On August 5, 2024, the Department sent Petitioner an Approval Notice, approving Petitioner for 33 hours and 19 minutes a month effective July 30, 2024. (Exhibit A; Testimony.)
7. On August 15, 2024, the Department sent Petitioner an Approval Notice, approving Petitioner's Provider with an agency with an effective date of July 31, 2024. (Exhibit A; Testimony.)
8. On September 11, 2024, the Department sent Petitioner a Corrected Approval Notice, approving Petitioner's Provider with an agency with an effective date of July 24, 2024. (Exhibit A; Testimony.)
9. On August 23, 2024, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Exhibit A.)

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.

Applicable policies regarding HHS can be located in various parts of the Adult Services Manual (ASM) and the Bridges Administrative Manual (BAM). For example, with respect to referrals for HHS, ASM 110 states in part:

* * *

Case Assignment and Disposition

The supervisor or their designee assigns the pending referral to the adult services worker (ASW) using the Assign Worker button under the Case Action section in MiAIMS.

Documentation

The ASW must print the introduction letter, the DHS-390, Adult Services Application, and the DHS-54A, Medical Needs form located in the Forms module and mail to the client. The introduction letter allows the client 21-calendar days to return the documentation to the local office. Note: The introduction letter does not serve as adequate notification if Home Help services are denied. The ASW must send the client a DHS-1212A, Adequate Negative Action Notice; see ASM 150, Notification of Eligibility Determination.

Standard of Promptness (SOP) The ASW must determine eligibility within the 45-day standard of promptness, which begins the day after the referral is received and entered on MiAIMS. The referral date entered on MiAIMS must be the date the referral was received in the local office. The computer system calculates 45 days beginning the day after the referral date and counting 45-calendar days. If the due date falls on a weekend or holiday, the due date is the next business day.

When a signed DHS-390 serves as the initial request for services, the referral date must be the date the application was received in the local office.

Note: Verbal attestation of the DHS-390, Adult Services Application, is acceptable during the COVID-19 Public Health Emergency from 04-01-2020 through 05/11/2023.

Note: A DHS-54A, Medical Needs form does not serve as an application for services. If the local office receives a DHS-54A as the initial request for services, a referral must be entered on MiAIMS for the date the form was received in the local office and an application mailed or given to the individual requesting services.

After receiving the assigned referral, the ASW gathers information through an assessment, contacts, etc. and decides to approve or deny the referral; see ASM 115, Adult Services Requirements.¹

Moreover, regarding eligibility for HHS, ASM 105 states in part:

OVERVIEW

Home Help services are available if the client meets all eligibility requirements. The Adult Services Worker (ASW) may open a Home Help case with supportive services methodology to assist the client in applying for Medicaid (MA), if necessary.

Home Help services payments cannot be authorized prior to establishing Medicaid eligibility and completing a face-to-face assessment with the client. Once MA eligibility has been established, the case service methodology must be changed to case management.

Requirements

Home Help eligibility requirements include all 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).

Medicaid Eligibility

The client may be eligible for Medicaid (MA) when either all requirements for Medicaid eligibility have been met, or the Medicaid deductible obligation has been met.

The client must have a scope of coverage of either:

- 1F or 2F.
- 1D or 1K (Freedom to Work).
- 1T (Healthy Kids Expansion).

¹ ASM 110, May 1, 2023, p 2.

- 3G (Healthy Michigan Plan).
- 7W (MI Child).
- 8L (Flint).

Clients with a scope of coverage 20, 2C, or 2B are not eligible for Medicaid until they have met their MA deductible obligation.

Note: A change in the scope of coverage in Bridges will generate a system tickler in the Michigan Adult Integrated Management System (MiAIMS) for active services cases.²

With respect to decisions on applications for HHS, ASM 150 states in part:

Written Notification of Case Action

All notifications are documented in the Michigan Adult Integrated Management System (MiAIMS) Contacts module, when they are generated. This documentation acts as the file copy for the case record. For this purpose, the form letters used are:

- DHS-1210, Services Approval Notice.
- DHS-1212A, Adequate Negative Action Notice.
- DHS-1212, Advance Negative Action Notice.

Each notification letter must include an explanation of the procedures for requesting an administrative hearing. The DCH-0092, Request for Hearing, notification must be generated from the Forms module in MiAIMS and sent with all negative action notices (DHS-1212A or DHS-1212).³

The Adult Services Manual (ASM) address the 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.

² ASM 105, June 1, 2020, p 1.

³ ASM 150, May 1, 2023, p 1.

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.⁴

ASM 105 ELIGIBILITY CRITERIA

GENERAL

⁴ 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.

The DHS-54A or veterans administration medical form 10-10M 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) in order to be eligible to receive Home Help services.⁵

ASM 115 ADULT SERVICES REQUIREMENTS

MDHHS-5534, ADULT SERVICES COMPREHENSIVE ASSESSMENT

The ASW must conduct a face-to-face interview with the client in their home to assess the personal care needs. During the assessment, complete the MDHHS-5534, Adult Services Comprehensive Assessment, generated from MiAIMS; see ASM 120, Adult Services Comprehensive Assessment.

CLIENT AND PROVIDER CONTACTS

Within the Contacts module of MiAIMS, the following contact types are available:

- Face-to-face.
- Telephone.
- Miscellaneous.
- Email.
- Text.
- Case conference with supervisor.
- Narrative entry only.

The ASW must document all contacts between the ASW, client, provider, and collateral contacts in MiAIMS. 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.⁶

⁵ ASM 105, June 1, 2020, pp 1, 3.

⁶ ASM 115, September 1, 2023, p 4.

ASM 120 ADULT SERVICES COMPREHENSIVE ASSESSMENT

OVERVIEW

The MDDHS-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 on the computer program.

Functional Tab

The *Functional* Tab under the *Assessment* module of 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 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.

Time and Task

The ASW will allocate time for each task assessed a rank of 3 or greater, based on interviews with the client and caregiver, observation of the client's abilities and use of the reasonable time schedule (RTS) as a **guide**. The RTS is built into the functional assessment tab within MiAIMS for each task. ASW's should modify how much time is needed based on clients' documented need.

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 adjoined 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.⁷

ASM 136 Agency Providers

Agency owners, agency caregivers, and agency employees who have access to the MDHHS Home Help clients' home or personal information are subject to criminal history screenings and program exclusions consistent with provisions outlined in current Home Help policy. Home Help agency caregivers and agency employees must also associate in CHAMPS to the agency where they are employed. The date of this association should not be earlier than the date the criminal history check was completed to protect client safety...

⁷ ASM 120, April 1, 2023, pp 1-8.

Recruitment of caregivers or clients is not allowed in MDHHS offices or anywhere on MDHHS premises. Home Help agencies may not use materials developed by MDHSS in advertising, marketing, or recruitment in a manner that misrepresents the Home Help agency's relationship with the state or the Home Help program. The use of the MDHHS logo on agency documents is prohibited. Agencies are not allowed to recruit or direct their advertising to Medicaid beneficiaries and/or their active individual caregivers who are already receiving Home Help services through MDHHS. An agency caregiver may not provide services to a Home Help client who they are assisting as an individual caregiver for 90-days after commencement of employment with the agency or for 90-days after termination of services as the client's individual caregiver, whichever comes later.⁸

In this case, Petitioner is appealing the allocation of benefits and the start date of the Provider. Consequently, Petitioner bears the burden of proof in this matter.

The Department provided evidence of the assessment and what was communicated during the assessment. The Department went on to indicate the allocation of benefits was based on a reasonable time schedule. The Petitioner did not directly dispute the testimony or documentation and instead made a plea based on the argument that it would be fair to provide additional time. In regard to the start date issue, the Department pointed to ASM 136, and further stated not only was it Petitioner's intention to change from an individual caregiver to an agency caregiver; but that Petitioner also agreed to forgo 90-days of payments. Again, the Petitioner did not dispute the facts presented, other than to indicate they should receive something for the time they put in and the fact the provider has fallen behind on her own financial responsibilities due to not being paid for the time period in question. The arguments, however, fail to address the applicable policy.

Consequently, the evidence reflects the Department acted appropriately in selecting the appropriate start date for services and further allocated the appropriate allocation based on the information provided to the Department.

DECISION AND ORDER

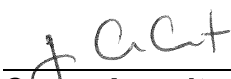
The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined the effective start date of Petitioner's HHS case and further properly determined the appropriate allocation of services.

⁸ ASM 136, Agency Providers, May 1, 2023, pp 2-3, 5.

IT IS THEREFORE ORDERED THAT:

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

CA/pe



Corey Arendt
Administrative Law Judge

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

Leigha Klaver
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P.O. Box 30807
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**Via First Class Mail
And Electronic Mail:**

**Petitioner and Authorized Hearing
Representative**

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