



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR



Date Mailed: January 28, 2020
MOAHR Docket No.: 19-012412
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 January 22, 2020. [REDACTED], Petitioner's Mother and Authorized Hearing Representative, appeared on Petitioner's behalf. Florence Scott-Emuakpoer, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Kristy Schrank, Adult Services Worker (ASW), appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

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

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 September 24, 2019, Petitioner requested HHS. (Exhibit (Ex) A, p 8.)
2. On September 24, 2019, the Department received a 54A Medical Needs form. The form indicated Petitioner had a medical need for assistance with the activities of bathing, grooming, dressing, taking medications, meal preparation, shopping, laundry and housework. The form indicated Petitioner suffered from schizophrenia, ADHD, HTN, and paranoid delusions. (Ex) A, p 7; Testimony.)

3. On October 18, 2019, the ASW went to the Petitioner's home to conduct an in-home assessment. The Petitioner participated in the assessment. During the assessment, Petitioner did not indicate a need for hands on assistance with a single activity of daily living (ADL) outside of a need for assistance with washing his back. Petitioner was observed ambulating, transferring and putting on a coat and zipping it without hands on assistance. (Ex A, p 9; Testimony.)
4. After the October 18, 2019 assessment, the ASW concluded the Petitioner had a need for assistance with cuing and reminders and that the Community Mental Health agency would be the agency best suited to assist Petitioner as the Petitioner's needs were a result of mental health issues. (Testimony.)
5. On October 28, 2019, 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 need for hands on assistance with at least one ADL. (Ex A, p 10; Testimony.)
6. On December 2, 2019, the Michigan Office of Administrative Hearings and Rules, received from the Petitioner a request for a hearing. (Ex A, p 6.)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 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 health professional 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 in part:

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.*
- *Light housecleaning.*

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. This list is not all inclusive.

ASM 101 (April 1, 2018), pp. 1-3 (*Italics added for emphasis*).

Similarly, ASM 120 states in part:

Functional Abilities Tab

The **Functional** Tab under **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 abilities 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 3 level 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.

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 under 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 bath himself without the hands-on assistance of another. The Adult Services Worker (ASW) must rank Mr. Jones a 3 or greater under the functional abilities tab. Mr. Jones would be eligible to receive home help services.

Assistive technology includes such items as walkers, wheelchairs, canes, reaches, 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.

ASM 120 (January 1, 2018), pp. 2-4 (*Italics added for emphasis*).

As described in the above policy, an individual is only eligible to receive HHS, in general, if he or she has a need for assistance with at least one ADL at a level 3 or greater on the functional scale.

In this case, the Department denied Petitioner's request for HHS benefits on the basis that Petitioner did not have a need for assistance with any ADLs at a level 3 or greater on the functional scale.

Petitioner did not present any direct evidence to rebut the Department's position.

As a result, based upon the testimony provided and the documentation provided, I find the Department acted appropriately in denying the Petitioner's request for services as there is no indication that Petitioner requires hands on assistance with a single ADL.

Accordingly, the determination to deny Petitioner's request for HHS benefits must be upheld. Petitioner can always reapply for HHS benefits.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

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

CA/sb



Corey Arendt
Administrative Law Judge
for Robert Gordon, 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

DHHS -Dept Contact

Michelle Martin
Capitol Commons
6th Floor
Lansing, MI
48909

DHHS

Kathleen Verdoni
Saginaw County DHHS
411 East Genesee
PO Box 5070
Saginaw, MI
48607

DHHS Department Rep.

M. Carrier
Appeals Section
PO Box 30807
Lansing, MI
48933

Authorized Hearing Rep.

[REDACTED]
MI

Agency Representative

Florence Scott-Emuakpor
222 N. Washington Square
Suite 100
Lansing, MI , MI
48933

Petitioner

[REDACTED]
MI