



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
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 5, 2024
MOAHR Docket No.: 23-008784
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 3, 2024. [REDACTED] Petitioner's Family friend and landlord, appeared on behalf of the Petitioner. Petitioner, [REDACTED] appeared as a witness. Emily Piggott, Appeals Review Officer, appeared on behalf of the Department of Health and Human Services (Department). Amanda Hammon, Adult Services Worker, appeared as a witness for the Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did the Department properly determine Petitioner's 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 September 8, 2023, the Petitioner submitted a referral for HHS. (Exhibit A, p 8.)
2. On or prior to October 20, 2023, the Petitioner submitted to the Department, an application for HHS and a 54A Medical Needs Form. (Exhibit A, pp 15-19.)

3. On October 20, 2023, the Petitioner participated in a face-to-face assessment. During the assessment, the Petitioner indicated he was able to perform each of his Activities of Daily Living (ADL's) independently and only needed assistance with food preparation and laundry. Petitioner also indicated he uses a cane to ambulate. (Exhibit A, p 20; Testimony.)
4. On October 23, 2023, the Department contacted the Petitioner by phone. During the conversation, Petitioner indicated he lived in a room and board setting making payments to [REDACTED]. Petitioner further indicated he was not related to [REDACTED]. The Department advised Petitioner that he would need to choose another caregiver other than [REDACTED] if he wished to receive HHS. (Exhibit A p 20; Testimony.)
5. On October 23, 2023, the Department issued Petitioner a Services Approval Notice approving Petitioner for HHS in the areas of laundry. The notice further indicated Petitioner would need to identify a different caregiver. (Exhibit A p 23; Testimony.)
6. On December 6, 2023, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing.¹ (Exhibit 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.

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 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.

¹ The Petitioner is only appealing the HHS benefit allocation and not the room and board determination.

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.

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 bath himself without the hands-on assistance of another. The adult services worker 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.

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.²

ASM 105 ELIGIBILITY CRITERIA

GENERAL

Requirements

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

- Medicaid eligibility.
- Appropriate Program Enrollment Type (PET) status.
- 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 10-10M are acceptable for individuals treated by a VA physician; see ASM 115, Adult Services Requirements.

² Adult Services Manual (ASM) 101, Available Services, April 1, 2018, pp 1-5.

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 3 or greater to be eligible to receive home help services.³

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.⁴

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

³ ASM 105, Eligibility Criteria, June 1, 2020, pp 1, 3.

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

(MiAIMS) provides the format for the comprehensive assessment and all information must be entered in the computer program.

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.⁵

ASM 139 ROOM AND BOARD

Definition

Room and board describes a situation where, in exchange for a fee, a person is provided with a place to live and meals.

Home Help in Room and Board Settings

If room and board setting is not in violation of Public Act 218, Home Help may be approved if the client meets the eligibility criteria. Do not include hours for meal preparation.⁶

In this case, it was indicated Petitioner was requesting a hearing because Petitioner disagreed with the Department's HHS allocation.

The ASW who performed the assessment and made the determination regarding Petitioner's HHS allocation testified the determination was based on the information that was provided during the assessment along with information that was shared during a

⁵ ASM 120, Adult Services Comprehensive Assessment, May 1, 2023, pp 1-3.

⁶ ASM 139, Room and Board, January 1, 2020, pp 1-2.

telephone call with Petitioner wherein Petitioner acknowledged living in a room and board setting.

Petitioner argued a need for additional services beyond the allocation and primarily focused on problems with getting to the bathroom, a need to wear pull-ups, and mobility issues. The Petitioner, however, failed to show how the approved allocation failed to meet Petitioner's medical needs.

Although Petitioner has issues getting to the bathroom, Petitioner testified he was able to toilet himself without the need for hands on assistance. Furthermore, physical hands-on assistance isn't required in this case when all the Petitioner needs is a verbal reminder or cue. Moreover, the need for pull-ups fails to show a need for additional assistance. Likewise, the fact Petitioner has mobility needs fails to show a need for additional assistance. Petitioner can ambulate and transfer without the need for hands on assistance.

Consequently, based on a review of the record, I find sufficient evidence to affirm the Department's HHS allocation in this case. If Petitioner's circumstances change, Petitioner should notify the Department of his changes and ask for a new assessment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides the Department properly determined the Petitioner's HHS benefit allocation.

IT IS, THEREFORE, ORDERED that:

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

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

Emily Piggott
DCH Appeals Section
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DHHS Department Contact

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Via First Class Mail:

Petitioner

[REDACTED]

[REDACTED] MI [REDACTED]