



Date Mailed: March 18, 2025

Docket No.: 25-004259

Case No.:

Petitioner:



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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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 Petitioner's request for a hearing.

After due notice, a hearing was held on March 13, 2025. [REDACTED] Petitioner's mother and Authorized Hearing Representative (AHR), appeared and testified on Petitioner's behalf. [REDACTED], Petitioner, also appeared. Allison Pool, Appeals Review Officer (ARO), appeared on behalf of Respondent, Michigan Department of Health and Human Services (MDHHS or Department). Shaumanique Bright, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

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

FINDINGS OF FACT

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

1. Petitioner is a Medicaid beneficiary, who applied for HHS on [REDACTED], 2024. (Exhibit A, p 11; Testimony)
2. Petitioner is diagnosed with mild intellectual disabilities, autistic disorder, and other bipolar disorder. (Exhibit A, p 15; Testimony)
3. On December 13, 2024, the ASW completed a comprehensive assessment

with Petitioner in Petitioner's home. During the assessment, the ASW determined that Petitioner did not have a need for hands on assistance with any Activities of Daily Living (ADL's), functional ranking 3 or greater, but might need assistance with his Instrumental Activities of Daily Living (IADL's). The ASW also concluded that Petitioner had no complex care needs. The ASW noted that Petitioner informed her that he is independent with all his ADL's and does not use any adaptive equipment. The ASW noted that she witnessed Petitioner moving about the home without assistance. (Exhibit A, p 17; Testimony)

4. At the assessment, the ASW spoke to Petitioner's mother on the phone. Petitioner's mother indicated that Petitioner does not have a guardian. (*Id.*) The ASW also asked Petitioner questions to determine if Petitioner was able to cognitively answer the questions in the assessment and determined that he was. (*Id.*)
5. A 54A Medical Needs form was completed by Petitioner's doctor on October 16, 2024, who certified that Petitioner had a medical need for HHS. (Exhibit A, p 19; Testimony)
6. On December 18, 2024, the ASW sent Petitioner an Advance Negative Action Notice indicating that HHS was denied based on the policy requiring a need for hands on assistance with at least one ADL, functional ranking 3 or greater. (Exhibit A, p 12; Testimony)
7. On February 5, 2025, Petitioner's hearing request was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, pp 8-9)

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.

Complex Care

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 Assessment MDHHS-5535 from MiAIMS

Services not Covered by Home Help

Home help services must **not** be approved for the following:

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- 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.

*Adult Services Manual 101
April 1, 2018, pp 1-2, 5
Emphasis added*

ASM 105 ELIGIBILITY CRITERIA

GENERAL

Requirements

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

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- 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.

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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.

*Adult Services Manual 115
May 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.

Home Help payments may only be authorized for needs assessed at the ranking of level 3 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 IADLs 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 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 worker (ASW) must rank Mr. Jones a 3 or greater under the Functional tab. 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 handheld showers.

*Adult Services Manual 120
May 1, 2023, pp 1-3
Emphasis added*

The ASW testified that based on the information available at the time of the assessment, she concluded that Petitioner did not have a medical need, functional ranking of 3 or higher, with any ADL, and had no complex care needs. The ASW indicated that on December 18, 2024, she sent Petitioner a Negative Action Notice indicating that HHS was denied based on the policy requiring a need for hands on assistance with at least one ADL, functional ranking 3 or greater, to qualify for HHS.

Petitioner's mother testified that the ASW was late for the assessment appointment, which is why she was unavailable at a doctor's appointment down the street. Petitioner's mother indicated that she left her doctor's appointment and came back to the house, but the ASW had already left. Petitioner's mother indicated that Petitioner does take medications, including a monthly injection. Petitioner's mother testified that she takes Petitioner to all his appointments and conducts all Petitioner's business. Petitioner's mother testified that she tries to give Petitioner freedom and tries to help him learn things but he is not even as mature mentally as her ■■■ year-old son (Petitioner is ■■■). Petitioner's mother indicated that Petitioner was in special education his entire life and was once in a mental health facility for a year. Petitioner's mother testified that she was told when Petitioner was ■■■ that he would never be able to hold down a job, but Petitioner still tries hard.

In response, the Department's ARO asked Petitioner's mother if Petitioner was familiar or involved with Community Living Supports through the local community mental health agency in her area. Petitioner's mother indicated that they do go to Neighborhood Services Organization but are switching to another agency.

Also, in response, the Department's ASW indicated that she was not late for the appointment.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that the Department erred in denying the HHS application. 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 for this assessment.

The ASW asked Petitioner questions at the outset of the assessment to ensure that he was competent to complete the assessment. The ASW provided credible, detailed testimony regarding her discussion of ADL's with Petitioner during the assessment and her observations of Petitioner. Petitioner informed the ASW that he was independent with all ADL's and used no adaptive equipment.

Again, assistance with ADL's functional ranking 3 or higher is a requirement for HHS to be approved. Petitioner also has no complex care needs. In her testimony, Petitioner's mother indicated that she helps Petitioner with many things, but she did not indicate that she helped Petitioner with any ADL's, such as bathing, dressing, etc.

Furthermore, policy provides that the ASW determines eligibility for HHS after the comprehensive assessment, not Petitioner's doctor or any other medical practitioner. As such, the fact that the doctor that completed the 54A Medical Needs form indicated that Petitioner needs HHS, or the fact that Petitioner submitted two letters from other doctors regarding Petitioner's needs is not dispositive.

Finally, whether or not the ASW was late for the assessment is irrelevant because Petitioner does not have a guardian, so it was not legally necessary for Petitioner's mother to be at the assessment.

If Petitioner does need hands on assistance with ADL's, Petitioner can always reapply for HHS. However, given the evidence here, the denial of Petitioner's HHS application was proper and must be upheld.

And, as the Department's ARO suggested at the hearing, Community Living Supports through the local community mental health agency might be a better fit for Petitioner.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Petitioner's HHS application based on the available information.

IT IS THEREFORE ORDERED that:

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



ROBERT J. MEADE
ADMINISTRATIVE LAW JUDGE

RM/sj

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to LARA-MOAHR-DCH@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
Michigan Office of Administrative Hearings and Rules
Rehearing/Reconsideration Request
P.O. Box 30639
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 18th day of March 2025.

S. James

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**Michigan Office of Administrative
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