



Date Mailed: April 23, 2025

Docket No.: 25-007982

Case No.: [REDACTED]

Petitioner: [REDACTED]



This is an important legal document. Please have someone translate the document.

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

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DECISION AND ORDER

This matter is before the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon a request for hearing filed by Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on April 3, 2025. Petitioner appeared and testified on his own behalf. Emily Piggott, Appeals Review Officer, represented the Respondent Department of Health and Human Services (Department). Christine Harper, Adult Services Worker (ASW), testified as a witness for the Department.

During the hearing, the Department submitted an evidence packet that was admitted into the record without objection as Exhibit A, pages 1-62. No other proposed exhibits were submitted by either party.

ISSUE

Did the Department properly decide to reduce Petitioner's Home Help Services (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. Petitioner is a [REDACTED] year-old Medicaid beneficiary who has been approved for HHS through the Department since June of 2022. (Exhibit A, pages 7-8).

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2. Prior to the actions at issue in this case, Petitioner was approved for 87 hours and 34 minutes of HHS per month. (Exhibit A, page 23).
 3. Specifically, Petitioner was approved for assistance with bathing 16 minutes per day, 7 days per week (8:02 per month); dressing 14 minutes per day, 3 days per week (7:01 per month); grooming 6 minutes per day, 2 days per week (1:09 per month); mobility 14 minutes per day, 7 days per week (7:01 per month); toileting 22 minutes per day, 7 days per week (11:02 per month); housework 12 minutes per day, 7 days per week (6:01 per month); laundry 49 minutes per day, 2 days per week (7:01 per month); travel for laundry 30 minutes per day, 2 days per week (4:16 per month); taking medications 2 minutes per day, 1 day per week (0:09 per month); meal preparation 50 minutes per day, 7 days per week (25:05 per month); shopping 35 minutes per day, 2 days per week (5:01 per month); and travel for shopping 40 minutes per day, 2 days per week (5:44 per month). (Exhibit A, page 23).
 4. On January 9, 2025, the ASW completed a reassessment with Petitioner in Petitioner's home. (Exhibit A, page 10).
 5. During that assessment, the ASW observed Petitioner ambulating and transferring independently, and without the use of adaptive equipment. (Exhibit A, page 10; Testimony of ASW).
 6. Petitioner generally reported that everything has remained the same, but also specifically said that the only bathing assistance he needed was washing his back; the only dressing assistance he needed was putting on socks; he is able to do his grooming; the only toileting assistance he needed is occasional wiping; and he is able to microwave meals. (Exhibit A, page 10; Testimony of ASW).
 7. Following that reassessment, the ASW sent Petitioner a request for an updated Medical Needs form. (Exhibit A, page 12).
 8. The request was made because Petitioner's previously-submitted form only indicated limitations for three months. (Exhibit A, pages 11-14; Testimony of ASW).
 9. The ASW also sent Petitioner written notice that, effective January 24, 2025, Petitioner's HHS would be reduced to 49 hours and 22 minutes per month, with assistance with mobility removed and assistance with bathing, dressing, toileting, meal preparation, and travel for shopping reduced. (Exhibit A, pages 16-17).
 10. On January 16, 2025, the Department received an updated Medical Needs form from Petitioner's medical provider. (Exhibit A, page 18).

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11. In that form, the provider identified Petitioner's diagnoses as "shoulder joint mobility, COPD, leg weakness". (Exhibit A, page 18).
 12. The provider also certified that Petitioner had a medical need for assistance with at least one of the personal care activities listed on the form, specifically circling bathing, grooming, meal preparation, shopping, laundry, and housework. (Exhibit A, page 18).
 13. On January 17, 2025, the ASW sent Petitioner written notice that, effective January 31, 2025, Petitioner's HHS would be reduced to 46 hours and 52 minutes per month. (Exhibit A, pages 21-22).
 14. Specifically, between the two notices, assistance with bathing was reduced to 5 minutes per day, 7 days per week (2:30 per month); dressing to 2 minutes per day, 5 days per week (0:43 per month); travel for laundry to 25 minutes per day, 2 days per week (3:35 per month); meal preparation to 35 minutes per day, 7 days per week (17:33 per month); and travel for shopping to 30 minutes per day, 2 days per week (4:18 per month). (Exhibit A, pages 23-24).
 15. All assistance with the tasks of grooming, mobility and toileting was removed. (Exhibit A, pages 23-24).
 16. Assistance with the tasks of housework, laundry, taking medications and shopping has remained the same. (Exhibit A, pages 23-24).
 17. On March 3, 2025, MOAHR received the request for hearing filed in this matter with respect to the decision to reduce Petitioner's HHS. (Exhibit A, pages 4-6).

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 statutes, 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.

Adult Services Manual (ASM) 101 (4-1-2018) and ASM 120 (5-1-2023) address the issue of what services were 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.

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- 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 [sic] 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.

* * *

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.

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- 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.

ASM 101, pages 1-3, 4-5

Moreover, ASM 120 states in part:

Functional Tab

The *Functional* Tab under *Assessment* module in MiAIMS is the basis for service planning and for 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.

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- 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 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 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.

* * *

Time and Task

The ASW will allocate time for each task assessed at 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 tab within MiAIMS for each task. ASW's should modify how much time is needed based on the client's documented need.

MiAIMS includes a functional assessment time based on the ASW's assessment of the client's needs. MiAIMS also has a provider time and task based on the client's choice of activities and frequency to be performed by their chosen provider. The client functional assessment summary may be different from the provider time and task due to client choice or provider availability. The client's functional assessment summary indicates the maximum approved time based on the client's assessed need. Upon client request, the provider authorization may exceed the provider time and task, but may not exceed the client functional assessment. The ASW should document the reason for the variance from the provider time and task in the payment rationale box in MiAIMS.

Note: This allows flexibility for client choice while also assuring the basic needs of the client are being met. The caregiver must correctly document which tasks they are performing.

Example: Miss Smith has been assessed to need bathing assistance. However, she does not want her caregiver or agency provider to assist her with bathing. Miss Smith continues to do bathing on her own with difficulty. Miss Smith's functional assessment summary will have bathing allocated, but bathing will not be included in her provider's time and task.

An assessment of need, at a ranking of 3 or greater, does not automatically guarantee the suggested allotted time allowed by the RTS. **The ASW must assess each task according to the average time and frequency required for its completion.**

Example: A client needs assistance with cutting up food. The ASW would only pay for the average time required to cut the food.

Example: On a good day, it takes the caregiver or agency provider 10 minutes to dress Miss Jones. On a bad day, when Miss Jones is in a lot of pain, it can take the caregiver or agency provider 20 minutes to assist Miss Jones with dressing. The average daily time needed is 15 minutes. Therefore 15 minutes is what is entered in the time and task.

Example: Sally is assessed needing an average of 20 minutes a day for bathing and reports frequency of 4 days a week. However, one day during the week, Sally was not feeling well and decided to skip her bath. The next day the caregiver assisted Sally with bathing in the morning and in the evening, due to illness. Both bathing activities totaled 20 minutes each. The frequency shows the caregiver only completed three days of bathing due to documentation restrictions. However, the caregiver assisted in four bathing occurrences during that week with one day having completed two baths.

Note: It is important to understand that each day a client may have different needs due to their health restrictions. Therefore, the average time and frequency may vary due to changes in the client's needs.

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 adjoining 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.
- Caregiver does not live with the client and completes the client's laundry, shopping, and meal preparation separately from the client's roommate. The client's roommate does their own laundry, shopping, and meal preparation, therefore, these IADLs are not prorated because the client is the only person benefiting from the service. However, housework is prorated as it is a common living area.

ASM 120, pages 2-9

Here, as discussed above, the Department reduced Petitioner's HHS pursuant to the above policies and following a face-to-face review with Petitioner and receipt of an updated Medical Needs form. Specifically, the Department found that Petitioner's assistance with grooming, mobility and toileting must be removed while assistance with bathing, dressing, travel for laundry, meal preparation and travel for shopping must be reduced.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred. Moreover, the undersigned ALJ is limited to reviewing the Department's decision in light of the information that was available at the time the decision was made.

Given the available information and applicable policies in this case, Petitioner has failed to meet his burden of proof, and the Department's decision must therefore be affirmed.

Petitioner generally testified that his new HHS hours do not add up, and that his caregiver is starting to get angry, but he failed to persuasively identify any specific errors.

For example, for several of the reductions; including reductions for travel for shopping and travel for laundry, Petitioner did not address the changes or suggest any error in the reductions.

Moreover, while Petitioner does dispute the reduction in assistance with meal preparation, Petitioner concedes that he can complete some aspects of that task, such as microwaving meals, and, as Petitioner was previously receiving the maximum amount of allowable assistance for that task, a reduction was appropriate.

Additionally, with respect to the removal of the assistance of mobility, while Petitioner testified that contrary to what was found by the ASW, he does use a cane for mobility and he needs hands-on assistance with going up-and-down stairs; his testimony alone is unpersuasive. The ASW credibly testified that she observed Petitioner ambulating independently and without the use of adaptive equipment, and the updated Medical Needs form identified Petitioner as ambulatory and did not indicate a need for assistance with mobility.

Similarly, while Petitioner disputes the removal of assistance with grooming and toileting, he has failed to meet his burden of proof given the credible testimony of the ASW regarding what was reported and the lack of any indication of need for assistance for those tasks on the updated Medical Needs form.

Moreover, while Petitioner disputed the reduction in bathing, he does not disagree with what the ASW found based on what was reported and, instead, testified that the ASW is unaware of certain things, because Petitioner is shy about talking about his bathing needs, and that Petitioner's bathing needs have changed, due to changes in Petitioner's circumstances. However, as discussed above, the undersigned ALJ is limited to reviewing the Department's decision in light of the information that was available at the time the decision was made, and the ASW's findings with respect to bathing are therefore proper given what she was told and the information at the time.

To the extent Petitioner's needs have changed or he has updated or additional information to report, he can always request more HHS in the future along with that information. With respect to the decision at issue in this case, however, the Department's decision must be affirmed given the available information and applicable policies.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

The Department's action is **AFFIRMED**

Steven Kibit

SK/sj

Steven Kibit
Administrative Law Judge

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

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