



Date Mailed: August 11, 2025

Docket No.: 25-018023

Case No.: [REDACTED]

Petitioner: [REDACTED]

[REDACTED]
MI [REDACTED]

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

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Date Mailed: August 11, 2025

Docket No.: 25-018023

Case No.: [REDACTED]

Petitioner: [REDACTED]

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 August 5, 2025. [REDACTED] appeared and testified on Petitioner's behalf. Petitioner, using an interpreter, also testified as a witness on his own behalf. John Lambert, Appeals Review Officer, appeared and testified on behalf of the Respondent Department of Health and Human Services (DHHS or Department). Shameka Mims, Adult Services Worker (ASW), also testified as a witness for the Department.

During the hearing, Petitioner's case was consolidated with another case, Docket No. 25-018022, for purposes of the hearing by agreement of the parties.

Two exhibits were also admitted into the record without objection:

Exhibit A: Evidence Packet for Docket No. 25-018022, pages 1-55

Exhibit B: Evidence Packet for Docket No. 25-018023, pages 1-68

ISSUE

Did the Department properly deny Petitioner's request for 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 Medicaid beneficiary who has been diagnosed with, among other conditions, uncontrolled type II diabetes; uncontrolled hypertension; chronic obstruction pulmonary disease; and bilateral leg neuropathy. (Exhibit A, pages 12, 20).
2. On [REDACTED] 2025, Petitioner was referred for HHS through the Department. (Exhibit A, page 10).

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3. As part of his application for services, Petitioner informed the Department that he is married and lives with his spouse. (Testimony of ASW).
 4. He also provided a Medical Needs form in which his doctor certified that Petitioner had a medical need for assistance with at least one personal care task listed on the form. (Exhibit A, page 20).
 5. Specifically, the doctor circled the Activity of Daily Living (ADL) of grooming and the Instrumental Activities of Daily Living (IADLs) of taking medications, meal preparation, shopping, laundry, and housework. (Exhibit A, page 20).
 6. The provider also checked "NO" in response to a question of whether Petitioner was non-ambulatory. (Exhibit A, page 20).
 7. On April 22, 2025, the ASW completed a comprehensive assessment with Petitioner in Petitioner's home, with a representative from the home help provider agency translating for Petitioner. (Exhibit A, page 17).
 8. During the assessment, Petitioner stated that he agreed with the doctor's findings on the Medical Needs form. (Exhibit A, page 17; Testimony of ASW).
 9. He also reported being able to clean his body, put on a shirt, eat on his own and use the toilet on his own, but that he cannot scrub his back during bathing. (Exhibit A, page 17).
 10. Petitioner further reported that he uses a cane or walker to move around the home. (Exhibit A, page 17; Testimony of ASW).
 11. The ASW observed Petitioner ambulating with a cane and walker during the assessment. (Testimony of ASW).
 12. Petitioner further reported needing assistance with medications, housework, laundry, shopping, and meal preparation. (Exhibit A, page 17; Testimony of ASW).
 13. Petitioner also stated that his spouse could not assist him with any tasks due to her own health issues, and the ASW provided Petitioner with a Medical Needs form for the spouse's medical provider to complete. (Exhibit A, page 17).
 14. On April 25, 2025, the Department received the Medical Needs form completed with respect to Petitioner's spouse. (Exhibit A, page 21).
 15. On April 28, 2025, the Department sent Petitioner written notice that his request for HHS had been denied. (Exhibit B, page 8).

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16. With respect to the reason for the denial, the notice stated:

54A (medical needs form) not received from client's spouse [REDACTED] (responsible relative). Per new policy effective 10/2/2011 by the Dept. of Community Health/Dept of Human Services requires the need for hands on services of at least one ADL/personal care task. Your assessment did not identify a need for ADL/personal care. Therefore, you are not eligible for home help services at this time. You may reapply if your situation changes.

Exhibit A, page 8

17. On May 16, 2025, MOAHR received a request for hearing filed in this matter with respect to that denial. (Exhibit B, pages 7-9).

CONCLUSIONS OF LAW

The Medical Assistance Program was 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.

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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 [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. The 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.

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- 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.
- 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:

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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.

Complex Care Needs

Complex care refers to conditions requiring intervention with special techniques and/or knowledge. These complex care tasks are performed on client's 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 and feeding.
- Catheters or legs bags.
- Colostomy care.
- Bowel program.
- Suctioning.
- Specialized skin care.
- Range of motion exercises.
- Peritoneal dialysis.
- Wound care.
- Respiratory treatment.
- Ventilators.
- Injections.

When assessing a client with complex care needs, refer to the MDHHS-5535, Complex Care Assessment, from the *Forms* module in MiAIMS for assistance with activity ranking, frequency, and length of time needed.

* * *

Responsible Relatives

A responsible relative is defined as an individual's spouse or a parent of an unmarried child under the age of 18.

Activities of daily living (ADLs) may be approved when the responsible relative is unavailable or unable to provide these services.

Note: Unavailable means absence from the home for an extended period due to employment, school, or other legitimate reasons. The responsible relative must provide a work or school schedule to verify they are unavailable to provide care. Unable means the responsible person has disabilities of their own which prevent them from providing care. These disabilities must be documented and verified by a medical professional on the DHS-54A, Medical Needs, form.

Do **not** approve shopping, laundry, or light housecleaning when a responsible relative of the client resides in the home, unless they are unavailable or unable to provide these services. Document findings in the Contacts module in MiAIMS.

Example: Mrs. Smith needs Home Help services. Her spouse is employed and is out of the home Monday through Friday from 7a.m. to 7p.m. The ASW would not approve hours for shopping, laundry, or house cleaning as Mr. Smith is responsible for these tasks and is able to complete these tasks on the weekends.

ASM 120, pages 2-5, 7-8

Regarding the Functional Assessment Definitions and Ranks discussed above, ASM 121 (8-1-2018) further states in part:

ACTIVITIES OF DAILY LIVING

Use the following information as guidance when completing a comprehensive assessment.

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Eating - helping with the use of utensils, cup/glass, getting food/drink to mouth, cutting up/manipulating food on plate, swallowing foods and liquids, cleaning face and hands after a meal.

1. No assistance required.
2. Verbal assistance or prompting required. Client must be prompted or reminded to eat.
3. Minimal hands-on assistance or assistive technology needed. Help with cutting up food or pushing food within reach; help with applying assistive devices. The constant presence of another person is not required.
4. Moderate hands-on assistance required. Client has some ability to feed self but is unable to hold utensils, cup, or glass.
5. Totally dependent on others in all areas of eating.

Toileting - helping on/off the toilet, commode or bedpan; emptying commode, bed pan or urinal, managing clothing, wiping and cleaning body after toileting, cleaning ostomy and/or catheter tubes/receptacles, applying diapers and disposable pads. May also include catheter, ostomy or bowel programs.

1. No assistance required.
2. Verbal direction, prompting or reminding is required.
3. Minimal hands-on assistance or assistive technology needed with some activities. The constant presence of another person while toileting is not necessary.
4. The client does not carry out most activities without human assistance.
5. Totally dependent on others in all areas of toileting.

Bathing - helping with cleaning the body or parts of the body using a tub, shower or sponge bath; including getting a basin of water, managing faucets, soaping, rinsing and drying. helping shampoo hair.

1. No assistance required.

2. Bathes self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.

3. Minimal hands-on assistance or assistive technology required to carry out task. Generally, bathes self but needs some assistance with cleaning hard to reach areas; getting in/out of tub/shower. Client can sponge bath, but another person must bring water, soap, towel. Client relies on a bath or transfer bench when bathing. The constant presence of another is not required.

4. Requires direct hand- on assistance with most aspects of bathing. Could be at risk if unassisted.

5. Totally dependent on others in all areas of grooming.

Grooming - Maintaining personal hygiene and a neat appearance; including the combing/brushing of hair; brushing/cleaning teeth, shaving, fingernail and toenail care.

1. No assistance required.

2. Bathes self with direction or intermittent monitoring. May need reminding to maintain personal hygiene.

3. Minimal hands-on assistance required. Grooms self but needs some assistance with activities of personal hygiene.

4. Requires direct hands-on assistance with most aspects of grooming. Could be at risk if unassisted.

5. Totally dependent on others in all areas of grooming.

Dressing - Putting on and taking off garments; fastening and unfastening garments/undergarments, assisting with special devices such as back or leg braces, elastic stockings/garments and artificial limbs or splints.

1. No assistance required.

2. Client can dress self but requires reminding or direction in clothing selection.

3. Minimal hands-on assistance or assistive technology required. Client unable to dress self completely (for example,

tying shoes, zipping, buttoning) without the help of another person or assistive device.

4. Requires direct hands on assistance with most aspects of dressing. Without assistance would be inappropriately or inadequately dressed.

5. Totally dependent on others in all areas of dressing.

Transferring - Moving from one sitting or lying position to another. Assistance from the bed or wheelchair to the sofa, coming to a standing position and/or repositioning to prevent skin breakdown.

1. No assistance required.

2. Client can transfer but requires encouragement or direction.

3. Minimal hands-on assistance needed from another person for routine boosts or positioning. Client unable to routinely transfer without the help of another or assistive technology such as a lift chair.

4. Requires direct hands-on assistance with most aspects of transferring. Could be at risk if unassisted.

5. Totally dependent on others for all transfers. Must be lifted or mechanically transferred.

Mobility - Walking or moving around inside the living area, changing locations in a room, assistance with stairs or maneuvering around pets, or obstacles including uneven floors.

1. No assistance required even though the client may experience some difficulty or discomfort. Completion of the task poses no risk to safety.

2. Client can move independently with only reminding or encouragement. For example, needs reminding to lock a brace, unlock a wheelchair or to use a cane.

3. Minimal hands-on assistance required for specific maneuvers with a wheelchair, negotiating stairs or moving on certain surfaces. Without the use of a walker or pronged cane, client would need physical assistance.

4. Requires hands-on assistance from another person with most aspects of mobility. Could be at risk if unassisted.

5. Totally dependent on other for all mobility. Must be carried, lifted or pushed in a wheelchair or gurney always.

ASM 121, pages 1-4

Here, as described above, the Department denied Petitioner's request for HHS pursuant to the above policies.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of evidence that the Department erred in denying his request for HHS. Moreover, the undersigned ALJ is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

Given the available information and applicable policies in this case, Petitioner has met that burden of proof, and the Department's decision must therefore be reversed.

The Department offered two grounds for denial in this case, but it erred with both of those grounds.

For example, the notice of denial first stated that a 54-a Medical Needs form had not been received from Petitioner's spouse and the above policies do expressly provide that HHS must not be approved for services that a responsible relative, such as a spouse, is able and available to provide,

However, the undisputed record also demonstrates that a Medical Needs form for Petitioner was properly and timely submitted to the Department prior to the denial at issue. That the ASW had not received a copy prior to issuing the notice was not an error on Petitioner's part, and the Department's internal delay does not warrant a denial when the required form was received.

Moreover, while appearing to testify to the contrary at first, the ASW eventually agreed on the record that the submitted Medicaid Needs form demonstrates that Petitioner's spouse is unable to provide all the services Petitioner needs, with that testimony confirmed by Petitioner's own credible testimony and the remainder of the record.

For its second reason for denial, the Department found that Petitioner did not have a need for hands-on assistance with any ADLs, and as described in the above policies, an individual is only eligible to receive HHS in general, or with any IADLs, specifically, if he or she has a need for assistance with at least one ADL at a level 3 or greater on the functional scale.

However, the record also reflects that Petitioner does have such a need with at least the ADL of mobility.

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While Petitioner may not receive hands-on assistance with mobility, he does require the use of a walker or cane, without which he would require physical assistance, and such a need rises to a level 3 on the functional scale identified by policy.

Petitioner credibly testified about his mobility needs, and it is undisputed that he both reported such needs during the assessment and that he actually used such adaptive equipment during the assessment.

Moreover, while the ASW ultimately testified that she did not find Petitioner to be reliable with respect to mobility, her earlier testimony was scattered and inconsistent, with the ASW also testifying at various times that Petitioner does need adaptive equipment or that her job is to simply record what Petitioner reports regarding his needs, and the undersigned ALJ does not find her findings to be credible or probative.

At most, the Department's representative noted that Petitioner's doctor did not identify any need for mobility assistance on the submitted Medical Needs form, with the doctor checking "NO" in response to a question of whether Petitioner was non-ambulatory and, unlike with other tasks, not circling mobility when certifying that Petitioner had a medical need for assistance with at least one personal care task listed on the form. However, the Medical Needs form is not dispositive and the doctor is neither required to circle any specific tasks nor identify adaptive equipment used. Moreover, the terms personal care and non-ambulatory are not defined on the form, and one of Petitioner's listed diagnoses is bilateral leg neuropathy.

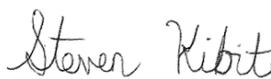
Accordingly, given the entirety of the record, including the timely submission and receipt of a Medical Needs form for Petitioner's spouse, Petitioner's credible testimony regarding his needs, and the ASW's inconsistent findings and testimony, the undersigned ALJ finds that Petitioner has proved by a preponderance of evidence that the Department erred in denying his request for HHS.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department improperly denied Petitioner's request for HHS.

IT IS, THEREFORE, ORDERED that:

- The Department's decision is **REVERSED**, and it must initiate a reassessment of Petitioner's request for HHS.



STEVEN KIBIT

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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://rs.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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