



Date Mailed: July 23, 2025

Docket No.: 25-020170

Case No.: [REDACTED]

Petitioner: [REDACTED]

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

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

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。

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[REDACTED]
MI [REDACTED]

Date Mailed: July 24, 2025

Docket No.: 25-020170

Case No.: [REDACTED]

Petitioner: [REDACTED]

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 telephone hearing was held on July 22, 2025. [REDACTED] Petitioner [REDACTED] mother/guardian and Authorized Hearing Representative (AHR) appeared on Petitioner's behalf. Emily Piggott, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services. Jake Ceslick, Adult Services Worker (ASW), appeared as a witness for the Department.

ISSUE

Did the Department properly authorize Petitioner's Home Help Services (HHS) and is Petitioner's caregiver entitled to back pay?

EXHIBITS

Exhibit A: Department's Hearing Summary, pp 1-63, for [REDACTED]

Exhibit B: Department's Hearing Summary, pp 1-66, for [REDACTED]

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 [REDACTED] is a Medicaid beneficiary who has been receiving HHS since 2014. (Exhibit B, p 6; Testimony.)
2. Petitioner is diagnosed with autism spectrum disorder, generalized anxiety disorder, and intellectual disability. (Exhibit B, p 13; Testimony.)
3. On May 15, 2025, the ASW completed a comprehensive assessment with Petitioner and Petitioner's mother/guardian in Petitioner's home. During the assessment, the ASW reviewed Petitioner's Activities of Daily Living (ADL's) and Instrumental Activities of Daily Living (IADL's). The ASW indicated that he learned that Petitioner's care had changed since the last assessment. Specifically, the ASW noted that Petitioner's dressing was taking longer due

to his cognitive delay and not remaining still.

The ASW noted that it was reported that Petitioner's bathing, eating, grooming, and toileting was taking longer due to Petitioner's behaviors and size. (Exhibit B, p 16; Testimony.)

4. A 54A Medical Needs form completed by Petitioner's doctor on September 9, 2014, when Petitioner's HHS began, indicated a need for assistance with most of Petitioner's personal care. (Exhibit B, p 13; Testimony.)
5. On May 16, 2025, the ASW sent Petitioner a Services Approval Notice indicating that HHS was increased to 73 hours and 48 minutes per month based on the recent assessment. (Exhibit A, pp 21-22; Testimony.)
6. On June 2, 2025, Petitioner's hearing request was received by the Michigan Office of Administrative Hearings and Rules. (Exhibit A, p 5.)

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 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.

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.

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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.

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.

*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.

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.

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:

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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 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.

Time and Task

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

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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 adjoined 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.

*Adult Services Manual 120
May 1, 2023, pp 1-9
Emphasis added*

The ASW testified that on May 15, 2025, he completed a comprehensive assessment with Petitioner and Petitioner's mother/guardian in Petitioner's home. During the assessment, the ASW reviewed Petitioner's ADL's and IADL's. The ASW indicated that he learned that Petitioner's care had changed since the last assessment. Specifically, the ASW noted that Petitioner's dressing was taking longer due to his cognitive delay and not remaining still. The ASW noted that it was reported that Petitioner's bathing, eating, grooming, and toileting was also taking longer due to Petitioner's behaviors and size.

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Petitioner's mother testified that she never informed the ASW that there was a change in Petitioner's behaviors. Petitioner's mother testified that ASW's have been coming to her home every 6 months for 11 years and this last assessment was the only thorough one conducted. Petitioner's mother indicated that in the past the ASW's simply asked if anything had changed and, when told that it had not, continued the previous HHS authorization. Petitioner's mother indicated that she was seeking back pay for all the prior assessments that did properly document Petitioner's care needs.

Based on the evidence presented, Petitioner has failed to prove by a preponderance of the evidence that the Department erred in authorizing HHS following the last assessment. In fact, Petitioner's mother agrees with the last assessment and wants it applied to all prior assessments and to receive back pay from the time Petitioner began receiving HHS. However, after reviewing all relevant policy, there is no provision that would allow for such back payment. In addition, because appeal rights arise following each assessment, there is no jurisdiction for this ALJ to reconsider those prior assessments because the time to appeal those decisions has lapsed.

The Social Security Act and the federal regulations which implement the Social Security Act require an opportunity for fair hearing to any recipient who believes the Department may have taken an action erroneously. See *42 CFR 431.200 et seq.* The opportunity for a fair hearing is limited by a requirement that the request be made within 90 days of the negative action. The regulations provide, in pertinent part:

Request for hearing.

(d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearing. *42 CFR 431.221(d).*

As such, there is no jurisdiction to revisit the past assessments. Based on the evidence presented, the Department's ASW properly calculated Petitioner's HHS based on policy at the most recent assessment.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

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



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ROBERT J. MEADE
ADMINISTRATIVE LAW JUDGE

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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

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.

Via Electronic Mail:

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