



Date Mailed: August 7, 2025

Docket No.: 25-020719

Case No.: [REDACTED]

Petitioner: [REDACTED]



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

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Docket No.: 25-020719

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 July 22, 2025. Petitioner appeared and testified on her own behalf. John Lambert, Appeals Review Officer, represented the Respondent Department of Health and Human Services (DHHS or Department). Kandace Wright, 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 1-49. No other proposed exhibits were submitted.

ISSUE

Did the Department properly terminate 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. Beginning in September of 2019, Petitioner was approved for HHS through the Department. (Exhibit A, page 8).
2. Prior to the action at issue in this case, Petitioner was approved for 41 hours and 16 minutes of HHS per month. (Exhibit A, page 12).
3. Specifically, Petitioner was approved for assistance with Activities of Daily Living (ADLs) of bathing, dressing, eating and grooming, and the Instrumental Activities of Daily Living (IADLs) of housework, laundry, taking medications, meal preparation, shopping, and travel for shopping. (Exhibit A, page 12).
4. Assistance with ADLs was approved due to reported issues with Petitioner using her hands due to arthritis, carpal tunnel, and nerve damage. (Exhibit A, page 13).

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5. On April 8, 2025, the ASW completed a routine reassessment with Petitioner and Petitioner's home help provider in Petitioner's home. (Exhibit A, page 16).
 6. Petitioner was not initially present, but soon arrived from a shopping trip where she had driven herself and shopped independently. (Exhibit A, page 16; Testimony of Petitioner).
 7. Petitioner reported that she needed assistance with bathing, dressing, grooming, housework, laundry, medications, meal preparation, and shopping, (Exhibit A, page 16).
 8. In response to a question from the ASW as to why Petitioner needed assistance with bathing, dressing and grooming when Petitioner is able to drive, Petitioner said that she has arthritis and gets stiff, and that it is difficult for her get into the shower, dress herself, brush her hair, and brush her teeth. (Exhibit A, page 16).
 9. The home help provider reported that he assists Petitioner with bathing, dressing, grooming, housework, laundry, meal preparation, and shopping. (Exhibit A, page 16).
 10. On April 22, 2025, the Department sent Petitioner written notice that her HHS would be terminated as of May 6, 2025. (Exhibit A, page 17).
 11. With respect to the reason for the action, the notice stated that "the client does not appear to require assistance with Activities of Daily Living." (Exhibit A, page 17).
 12. On June 4, 2025, MOAHR received the request for hearing filed by Petitioner in this matter with respect to that decision. (Exhibit A, page 7).

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.
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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

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.

Here, the Department terminated Petitioner's HHS on the basis that she did not have a need for assistance with any ADLs at a level 3 or greater on the functional scale as required.

In appealing that decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred. Moreover, the undersigned Administrative Law Judge 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 met her burden of proof, and the Department's decision must therefore be reversed.

As provided above, an individual is only eligible to receive HHS in general, or with any

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IADLs, if he or she has a need for assistance with at least one ADL at a level 3 or greater on the functional scale; and the record continues to reflect such a need in this case.

There have been no significant changes in Petitioner's needs since she was previously approved for HHS, including approval for assistance with the ADLs of bathing, dressing, eating and grooming; both Petitioner and her provider reported continuing assistance with the ADLs of bathing, dressing and grooming during the assessment; and Petitioner credibly testified with respect to those needs during the hearing.

Moreover, the Department's decision in this case was based on unpersuasive evidence. Specifically, the ASW testified that Petitioner did not need hands-on assistance with any ADLs based on the fact that Petitioner drove to the store, with Petitioner presumably buckling a seat belt, using two hands on the steering wheel, and grabbing items at the store. However, the finding that Petitioner buckled a seat belt was an unsupported assumption, one that Petitioner denied; the ASW did not inquire into what was purchased and how, with Petitioner subsequently testifying that it was just one small item; and driving is a different task from bathing, dressing and grooming, and one that could both require less fine motor skills than those ADLs and be easier for someone like Petitioner with arthritis, carpal tunnel and nerve damage in her hands.

Accordingly, while changes may be appropriate to Petitioner's HHS, with neither Petitioner nor her provider identifying any need for the previously-approved assistance with eating, Petitioner continues to need assistance with at least one ADL at a level 3 or greater on the functional scale and the termination in this case was improper.

DECISION AND ORDER

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

IT IS, THEREFORE, ORDERED that:

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

Steven Kibit

**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://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.

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