

MEDICAID POLICY INFORMATION SHEET

Policy Analyst: Lori Brown

Phone Number: 517-241-1852

Initial

Public Comment

Final

Brief description of policy:

This bulletin institutes a 40-hour limit on the number of hours an individual caregiver (i.e., a provider directly employed by a Home Help client) may be paid in a workweek for Home Help services provided to one Home Help client. It does not limit the number of hours of Home Help services a Home Help client may be authorized to receive per workweek; however, it prohibits the Home Help client from assigning more than 40 of the authorized hours to one individual caregiver.

Reason for policy (problem being addressed):

Home Help is a 42 CFR §440.167 state plan personal care services program. As such, it can only grant the Home Help client employer authority. The Home Help client does not have budget authority they can use to distribute Medicaid dollars to pay overtime that, as the employer, they are required to pay under the Fair Labor Standards Act.

Budget implication:

- budget neutral
 will cost MDHHS \$ _____, and (select one) budgeted in current appropriation
 will save MDHHS \$ _____

Is this policy change mandated per federal requirements?

Yes, by the federal Fair Labor Standards Act.

Does policy have operational implications on other parts of MDHHS?

MDHHS adult services workers will need to monitor service verifications to ensure individual caregivers are not paid more than 40 hours per week per Home Help client and may need to assist Home Help clients with finding additional providers.

Does policy have operational implications on other departments?

No.

Summary of input:

- controversial to Home Help clients and individual caregivers impacted by the policy and, potentially, client and direct care worker advocacy groups.
 acceptable to most/all groups
 limited public interest/comment

Supporting Documentation:

State Plan Amendment Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Public Notice Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, please provide status: <input type="checkbox"/> Approved <input type="checkbox"/> Pending <input type="checkbox"/> Denied	If yes, Submission Date:
Date: _____ Approval	Date: _____

DRAFT FOR PUBLIC COMMENT		
	Michigan Department of Health and Human Services	Project Number: 2132-HH Date: July 22, 2021

Comments Due: August 26, 2021
Proposed Effective Date: January 1, 2022
Direct Comments To: Lori Brown
Address:
E-Mail Address: Brownl35@michigan.gov
Phone: 517-241-1852 **Fax:**

Policy Subject: 40-Hour Weekly Limit on Payments for Home Help Services Provided to One Client

Affected Programs: Medicaid, Healthy Michigan Plan

Distribution: Home Help Individual Caregivers

Summary: This policy institutes a 40-hour limit on the number of hours an individual caregiver may be paid in a workweek for Home Help services provided to one Home Help client. It does not limit the number of hours of Home Help services a client may be authorized to receive per workweek; however, it prohibits the client from assigning more than 40 of the authorized hours to one individual caregiver.

Purpose: Home Help is a 42 CFR §440.167 state plan personal care services program. As such, it can only grant the Home Help client employer authority. The Home Help client does not have budget authority they can use to distribute Medicaid dollars to pay overtime that, as the employer, they are required to pay under the Fair Labor Standards Act.

Cost Implications: Budget neutral.

Potential Hearings & Appeal Issues: A Home Help client who either does not want to employ or is unable to find additional providers may request a hearing. Client advocates may file a complaint or lawsuit alleging the proposed policy further exacerbates client access to care issues caused by the direct care worker shortage.

State Plan Amendment Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, date submitted:	Public Notice Required: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Submitted date:
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Tribal Notification: Yes No - **Date:**

THIS SECTION COMPLETED BY RECEIVER

<input type="checkbox"/> Approved	<input type="checkbox"/> No Comments
<input type="checkbox"/> Disapproved	<input type="checkbox"/> See Comments Below
	<input type="checkbox"/> See Comments in Text

Signature:	Phone Number
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Signature Printed:

Bureau/Administration *(please print)*

Date

Comment001

Revised 6/16

Proposed Policy Draft

Michigan Department of Health and Human Services
Medical Services Administration

Distribution: Home Help Individual Caregivers

Issued: December 1, 2021 (Proposed)

Subject: 40-Hour Weekly Limit on Payments for Home Help Services Provided to One Home Help Client

Effective: January 1, 2022 (Proposed)

Programs Affected: Medicaid, Healthy Michigan Plan

The Home Help program is administered by the Michigan Department of Health and Human Services (MDHHS) and provides personal care services to individuals who need hands-on assistance with activities of daily living and instrumental activities of daily living. The purpose of this policy is to introduce a 40-hour limit on the number of hours an individual caregiver can be paid in a workweek for Home Help services provided to one client. **Effective January 1, 2022, an individual caregiver will be paid for no more than 40 hours of Home Help services per workweek per client.**

MDHHS will only pay for hands-on care to complete services on an individual caregiver's Time and Task and only up to 40 hours per workweek. A workweek is defined as a seven-day period that begins on Sunday at 12:00 a.m. and ends on Saturday at 11:59 p.m. The 40-hour limit includes travel time for shopping and laundry.

This policy applies only to individual caregivers as defined in the glossary below. This policy:

- **Does not** apply to agency caregivers. Agency caregiver pay rates and work schedules will continue to be set by the employing agency provider.
- **Does not** place a 40-hour limit on the number of hours of Home Help services a client can receive. A client authorized to receive more than 40 hours of Home Help services per workweek:
 - **Must** use more than one Home Help provider, which may include individual caregivers and/or agency providers.
 - **Must not** assign more than 40 hours per workweek to one individual caregiver.

Glossary

Agency Caregiver	A direct care worker employed by the agency provider. This individual provides Home Help personal care services to the client.
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Agency Provider	<ul style="list-style-type: none">▪ A current Medicare-certified home health agency; OR▪ An approved agency with a federal Employer Identification Number (EIN) that directly employs all (but not less than two) agency caregivers, not including the owner, who are providing services through the Home Help program and regularly receiving paychecks from the agency each month; OR▪ A Community Mental Health Services Program (CMHSP) that works with clients who use arrangements that support self-determination.
Client	A Medicaid beneficiary who is receiving personal care services through the Home Help program.
Individual Caregiver	A direct care worker employed directly by the client. This individual provides Home Help personal care services to the client.
Workweek	A seven-day period that begins on Sunday at 12:00 a.m. and ends on Saturday at 11:59 p.m.