STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM FOR THE DEPARTMENT OF COMMUNITY HEALTH

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IN THE MATTER OF:		Docket No. 2012 17279 FDW	
	Case	Docket No. 2012-47278 EDW No.	
Appel	llant /		
DECISION AND ORDER			
	s before the undersigned Administ ra 431.200 et seq. upon the Appellant's	tive Law Judge pursuant to MCL 400.9 request for a hearing.	
After due notice, a hearing was held on home caregiver and caretaker represented the Appellant. The Appellant also appeared, but did not provide any testimony.			
the		represented the appeared as witnesses for	
ISSUE			
Did the W aiver Agency properly deny the Appellant's request for a home modification for an additional ramp entry at the rear of his home?			
FINDINGS OF FACT			
The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:			
1.	Appellant is a Medicaid beneficiary program. (Exhibit 1).	and enrolled in the	
2.	The Appellant resides in his own hocaregiver and caretaker. (Exhibit 2,		
3.	The Appellant has services author program. (Exhibit 1)	ized through the	

4.

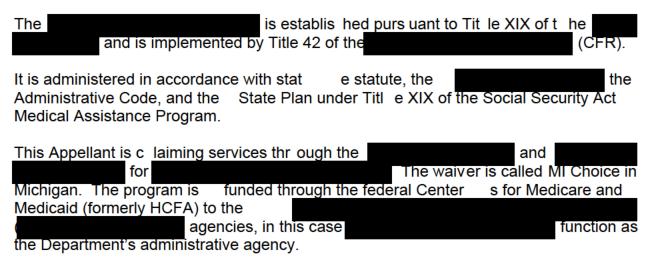
Appellant requested a ramp to be installed at his back

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door, in addition to a ramp at the front door that had previously been installed by the Waiver Agency. (Exhibit 1, Testimony)

- 5. Appellant was informed that his request was denied because two ramps at his home were not of direct medical or remedial benefit. (Exhibit 1, Testimony).
- 6. On April 13, 2012, the Appellant requested a hearing to contest the denial of the additional ramp. (Exhibit 2)
- 7. The Michigan Administrative Hear ing Sys tem received the request for hearing on April 17, 2012. (Exhibit 2).

CONCLUSIONS OF LAW



Waivers are intended to prov ide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440 and subpart G of part 441 of this chapter. 42 CFR 430.25(b)

A waiver under section 1915(c) of the Social Security Act allows a State to include as "medical assistance" under its plan, home and comm unity based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF [Skilled Nursing Facility], ICF [Intermediate Care Facility], or ICF/MR [Intermediate Care Facility/Mentally Retarded], and is re imbursable under the State Plan. 42 CF R 430.25(c)(2)

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Home and community based services means services not otherwise furnished under the State's Medicaid plan, that are furnished under a waiver granted under the provisions of part 441, subpart G of this subchapter. 42 CFR 440.180(a).

Home or community-based services may include the following services, as they are defined by the agency and approved by CMS:

- Case management services.
- Homemaker services.
- Home health aide services.
- Personal care services.
- Adult day health services
- Habilitation services.
- Respite care services.
- Day treatment or other partial partial all hos pitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, subject to the conditions specified in paragraph (d) of this section.

Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization. 42 CFR 440.180(b).

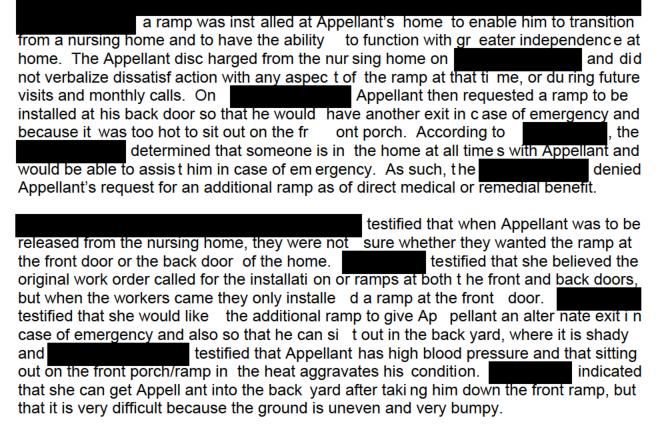
The Operating Standards applic able to the available under the waiver program and address the standards expected for each service. The provide, in part, the following:

SERVICE	Environmental Accessibility Adaptations
NAME	
SERVICE	Those physical adaptations to the home, required
DEFINITIONS	by the recipient's plan of care, which are
	necessary to ensure the health, welfare, and
	safety of the individual or which enable the
	individual to function with greater independence
	in the home and without which, the recipient
	would require institutionalization. Such
	adaptations may include the installation of ramps
	and grab-bars, widening of doorways,
	modification of bathroom facilities, or installation
	of specialized electric and plumbing systems
	which are necessary to accommodate the

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medical equipment and supplies necessary for the welfare of the client. Excluded are those adaptations or improvements to the home which are not of general utility, and are not of direct medical or remedial benefit to the waiver client, such as carpeting, roof repair, central air conditioning, etc. Adaptations which add to the total square footage of the home are excluded from this benefit. All services shall be provided in accordance with applicable State or local building codes. Emphasis added.

MI Choice Waiver, Updated September 2005; Attachment H, pages 23 and 24



This ALJ finds that the Waiver Agency pr operly denied the Appellant's request for an additional ramp at his back door as not of direct medical or remedial benefit. MI Choice Waiver policy clearly states that environmental modifications are allowed, "which are necessary to ensure the health, welfare, and safety of the individual or which enable the individual to function with greater independence in the home and without which, the recipient would require institutionalization." Here, a ramp was installed at Appellant's home to assist him with transition from a nursing home and so that he can function with

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greater independence. Those goals have been met with the ramp at the front door and, more importantly, a ramp at the back door is not necessary to prevent Appellant from becoming institutionalized. A ramp at the back door is also not of direct medical or remedial benefit. The Appellant always has someone in the home to assist him and that person can assist him out of the home in case of emergency. The Appellant failed to establish by a preponderance of the evidence, that a ramp at the back door was of direct medical or remedial benefit or would prevent institutionalization. As such, the Appellant failed to establish that an additional ramp could be authorized based upon the evidence of record. 42 CFR 440.230.

DECISION AND ORDER

Based on the above findings of fact and conclus ions of law, this Administrative Law Judge finds the Department properly denied the Appellant's request for an additional ramp at his back door.

IT IS THEREFORE ORDERED that:

The Department's prior decision is AFFIRMED.

Robert J. Meade
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health



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*** NOTICE ***

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.