

**STATE OF MICHIGAN**  
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**  
**FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P. O. Box 30763, Lansing, MI 48909  
(517) 335-2484; Fax (517) 373-4147

IN THE MATTER OF:

██████████

**Docket No.** 2012-61538 CMH  
**Case No.** ██████████

Appellant

\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge, pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.* and upon the Appellant's request for a hearing.

After due notice, a hearing held on ██████████ Appellant appeared and testified on his own behalf. ██████████ Appellant's care provider, also testified on Appellant's behalf. ██████████ Due Process Hearing Coordinator, represented the Oakland County Community Mental Health Service Program (CMHSP). ██████████ ██████████ and ██████████ from the CMHSP also testified as witnesses.

**ISSUE**

Did the CMHSP properly deny Appellant's request for the purchase of a vehicle on his behalf?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The CMHSP is under contract with the Department of Community Health (MDCH) to provide Medicaid covered services to people who reside in the CMHSP service area.
2. Appellant is a ██████████ who has been receiving services through the CMHSP. Appellant's services include 37 hours a week of Community Living Supports (CLS). (Exhibit 1, page 2).
3. Appellant is ambulatory, but uses an Amigo Power Wheelchair when he has to travel long distances. (Exhibit 2, page 1).
4. Appellant recently moved and now he does not have easy access to a vehicle that can transport his power wheelchair. (Testimony of Appellant; Testimony of ██████████).

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5. Appellant also selected a care provider without a van and who can only be authorized for mileage. (Exhibit 4, page 5).
6. In [REDACTED] Appellant requested that the CMHSP purchase a van for him to use to transfer his power wheel chair. (Testimony of Appellant' Exhibit 2, page 1).
7. On [REDACTED] the CMHSP sent a notice to Appellant notifying him that his request for purchase of a van on his behalf had been denied. The reason given for the denial was that Appellant's request was not for a covered Medicaid service and that transportation services had been authorized. (Exhibit 5, page 1).
8. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received a Request for Hearing regarding the denial.

**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.

Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children or qualified pregnant women or children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services. [42 CFR 430.0.]

The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State

program. [42 CFR 430.10.]

Section 1915(b) of the Social Security Act provides:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this subchapter, may waive such requirements of section 1396a of this title (other than subsection(s) of this section) (other than sections 1396a(a)(15), 1396a(bb), and 1396a(a)(10)(A) of this title insofar as it requires provision of the care and services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State...

The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915(c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Community Health (MDCH) operates a section 1915(b) and 1915(c) Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the Michigan Department of Community Health to provide services under the waiver pursuant to its contract obligations with the Department.

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate amount, scope, and duration to reasonably achieve the purpose of the covered service. See 42 CFR 440.230. Specifically, the CMHSP must also follow the Department's Medicaid Provider Manual (MPM) when approving mental health services to an applicant, and apply the medical necessity criteria found within that manual.

With respect to covered Medicaid services and transportation, the MPM states:

### **3.26 TRANSPORTATION**

PIHPs are responsible for transportation to and from the beneficiary's place of residence when provided so a beneficiary may participate in a state plan, HSW or additional/B3 service at an approved day program site or in a clubhouse psychosocial rehabilitation program. MHPs are responsible for assuring their enrollees' transportation to the primary health care services provided by the MHPs, and to (nonmental health) specialists and out-of-state medical providers. The DHS is responsible for assuring transportation to medical appointments for Medicaid beneficiaries not enrolled in MHPs; and to dental, substance abuse, and mental health services (except those noted above and in the HSW program described in the Habilitation/Supports Waiver for Persons with

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Developmental Disabilities Section of this chapter) for all Medicaid beneficiaries. (Refer to the local DHS or MHP for additional information, and to the Ambulance Chapter of this manual for information on medical emergency transportation.)

PIHP's payment for transportation should be authorized only after it is determined that it is not otherwise available (e.g., DHS, MHP, volunteer, family member), and for the least expensive available means suitable to the beneficiary's need. [MPM, Mental Health/Substance Abuse Chapter, April 1, 2012 version, page 22.]

Here, the CMHSP authorized a transportation stipend to meet Appellant's needs in that area. Respondent's representative also testified that such mileage is the most cost-effective method for transportation involving a single person. Additionally, as noted by Respondent's representative, the purchase of a van is not a Medicaid covered service.

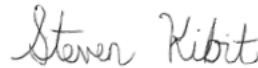
Appellant bears the burden of proving by a preponderance of the evidence that the CMHSP erred in denying his request that it purchase a van for him. Here, Appellant did not meet that burden. Appellant testified regarding the difficulties in using his CLS hours and in transporting his power wheelchair since his move. However, he cannot point to any policy identifying the purchase of a van for him as a Medicaid covered service. He also fails to show that the purchase of a van is the least expensive available means suitable to his medical needs. Accordingly, his request was properly denied.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMHSP properly denied Appellant's request for purchase of a van on his behalf.

**IT IS THEREFORE ORDERED** that:

The CMHSP's decision is AFFIRMED.



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Steven J. Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

cc:



Date Mailed: 10/11/2012

**\*\*\* 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.