

**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:

████████████████████

Appellant

\_\_\_\_\_ /

**Docket No.** 2012-51525 EDW  
**Case No.** ██████████

**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 was held on ██████████. Appellant appeared and testified on his own behalf. ██████████ Waiver Services Director, represented the Department of Community Health's Waiver Agency, the Region II Area on Aging ("Waiver Agency" or "AAA").

During the hearing, Appellant clarified and limited what he was seeking. Respondent's representative indicated that she was not sure if the Respondent would be willing to grant the clarified request, but she was willing to look into it. The parties then agreed that the hearing should be continued at a later date so that Respondent could have the opportunity to review Appellant's clarified request.

The hearing was continued on ██████████. Respondent's representative indicated that AAA had decided that it would not grant Appellant's clarified request.

**ISSUE**

Did the Waiver Agency properly deny Appellant's request for a second automatic door opener?

**FINDINGS OF FACT**

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

1. AAA is a contract agent of the Michigan Department of Community Health (MDCH) and is responsible for waiver eligibility determinations and the provision of MI Choice waiver services.

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2. Appellant is a [REDACTED] year-old man who has been diagnosed with Quadriplegia/Quadriparesis. (Exhibit 2, page 1). Appellant is also wheelchair bound. (Exhibit 4, page 5).
3. Appellant has been enrolled in and receiving MI Choice waiver services through AAA. His services have included the installation of a ramp to his back door and an automatic door opener for that back door. (Exhibit 4, page 5).
4. Appellant subsequently requested an automatic door opener for his front door. (Exhibit 4, page 5; Testimony of Appellant).
5. AAA, denying the request for a second automatic door opener and a second ramp, denied the request. (Exhibit 4, page 5; Testimony of [REDACTED]).
6. On [REDACTED] AAA sent Appellant written notice that it was denying his request for home modification on the basis that he already has an automatic door opener and ramp. (Exhibit 3, page 1).
7. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received a Request for Hearing with respect to the denial in this case. In that request, Appellant asserts that he needs an alternate way to exit his house in case of an emergency. (Exhibit 1, page 1).
8. After the hearing began on [REDACTED] Appellant clarified his request and stated that he only wanted a second automatic door opener as he can complete the second ramp himself. (Testimony of Appellant).
9. Respondent's representative agreed to look into whether that request would be granted and the parties agreed to continue the hearing at a later date. (Testimony of Appellant; Testimony of [REDACTED]).
10. The hearing was continued on August 29, 2012 and Respondent's representative indicated that AAA had decided that it would not grant Appellant's clarified request. (Testimony of [REDACTED]).

**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.

Appellant is claiming services through the Department's Home and Community Based Services for Elderly and Disabled. The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid Services to the Michigan Department of Community Health (Department). Regional agencies, in

this case AAA, function as the Department's administrative agency.

Waivers are intended to provide 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 community 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 reimbursable under the State Plan. [42 CFR 430.25(c)(2).]

Medicaid beneficiaries are only entitled to medically necessary Medicaid covered services and the MI Choice waiver did not waive the federal Medicaid regulation that requires that authorized services be medically necessary. See 42 CFR 440.230.

Moreover, with respect to the type of service sought in this case, the Medicaid Provider Manual (MPM), MI Choice Waiver Chapter, April 1, 2012, page 37, provides:

#### **4.1.K.ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS**

Environmental Accessibility Adaptations (EAA) include physical adaptations to the home required by the participant's plan of service that are necessary to ensure the health and welfare of the participant or that enable the participant to function with greater independence in the home, without which the participant would require institutionalization. Such adaptations include the installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the participant.

**Excluded are those adaptations or improvements to the home that are not of general utility and are not of direct**

**medical or remedial benefit to the participant.**

Adaptations that add to the total square footage of the home are excluded from this benefit unless necessary to complete an adaptation. (emphasis added)

Given the above policy, the Waiver Agency's decision to deny Appellant's request for a second automatic door opener should be sustained. While a second automatic door opener could be convenient and potentially necessary in case of an emergency, it is not medically necessary for everyday living. Moreover, it is not of general utility or direct or remedial benefit to Appellant given the ramp/automatic door opener already installed for his back door.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Waiver Agency properly denied Appellant's request for a second automatic door opener.

**IT IS THEREFORE ORDERED** that:

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

*Steven Kibit*

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

cc:

[REDACTED]

Date Mailed: 9/19/2012

**\*\*\* 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.