

**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. 2013-52267 CMH

██████████

██████████

**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 ██████████, ██████████, ██████████ and ██████████, represented the Appellant. ██████████, the Appellant, appeared and testified.

██████████, Hearing Officer, represented ██████████ County Community Mental Health Agency ("CMH" or "Department"). ██████████ Attorney, and ██████████, Associate Attorney, represented ██████████ ██████████ Supports Coordinator, and ██████████, Supports Coordination Manager, appeared as witnesses for ██████████.

The hearing record was left open for both parties to submit by fax their additional exhibit after the telephone hearing proceedings concluded on ██████████. From the CMH, their additional exhibit was received. From the Appellant's attorney, their additional exhibit and a Request for Reasonable Accommodation was received.

The hearing record was also left open for one week after the ██████████ telephone hearing proceedings for the Appellant's attorney to review and provide any objections to the CMH exhibits, none of which were provided to the Appellant or his attorney prior to the ██████████ hearing date. No objections to the Department's hearing exhibits have been received.

**ISSUE**

Did the CMH properly terminate the Appellant's Housing Assistance services for ongoing housing costs?

**FINDINGS OF FACT**

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

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1. The CMH is under contract with the Michigan Department of Community Health (“MDCH”) to provide Medicaid covered services to people who reside in the applicable service area.
2. In turn, the CMH contracts with service providers such as [REDACTED] to provide Medicaid covered services.
3. The Appellant purchased a home in [REDACTED] and has been receiving Housing Assistance services, including supplementing his mortgage and utility costs. (Uncontested)
4. Housing Assistance was included on a temporary basis in the [REDACTED] Personal Plan for the Appellant. (Exhibit 1, pages 10-35)
5. On or about [REDACTED], [REDACTED] sent the Appellant a letter stating that Housing Assistance and other supports and services that are authorized in his Personal Plan will expire with the Personal Plan on [REDACTED]. The letter further stated Housing Assistance cannot be re-authorized because Medicaid excludes funding for on-going housing costs. On [REDACTED], [REDACTED] sent the Appellant an amended version of the [REDACTED] letter, making a correction to page 2 where a date was left blank. (Exhibit 2, pages 2-20)
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the Appellant’s request for hearing.

**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.]

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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 also 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... [42 USC 1396n(b).]

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.

Medicaid beneficiaries are only entitled to medically necessary Medicaid covered services and the Specialty Services and Support program waiver did not waive the federal Medicaid regulation that requires that authorized services be medically necessary. See 42 C.F.R. § 440.230.

With respect to Housing Assistance, the Medicaid Provider Manual states:

**17.3.G. HOUSING ASSISTANCE**

Housing assistance is assistance with short-term, interim, or one-time-only expenses for beneficiaries transitioning from restrictive settings and homelessness into more independent, integrated living arrangements while in the process of securing other benefits (e.g., SSI) or public programs (e.g., governmental rental assistance and/or home ownership programs) that will become available to assume these obligations and provide needed assistance.

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Additional criteria for housing assistance:

- The beneficiary must have in his individual plan of services a goal of independent living, and either live in a home/apartment that he/she owns, rents, or leases; or be in the process of transitioning to such a setting; and
- Documentation of the beneficiary's control (i.e., beneficiary-signed lease, rental agreement, deed) of his living arrangement in the individual plan of service; and
- Documentation of efforts (e.g., the person is on a waiting list) under way to secure other benefits, such as SSI or public programs (e.g., governmental rental assistance, community housing initiatives and/or home ownership programs) so when these become available they will assume these obligations and provide the needed assistance.

Coverage includes:

- Assistance with utilities, insurance, and moving expenses where such expenses would pose a barrier to a successful transition to owning or leasing/renting a dwelling
- Limited term or temporary assistance with living expenses for beneficiaries transitioning from restrictive settings and homelessness
- Interim assistance with utilities, insurance or living expenses when the beneficiary already living in an independent setting experiences a temporary reduction or termination of his own or other community resources
- Home maintenance when, without a repair to the home or replacement of a necessary appliance, the individual would be unable to move there, or if already living there, would be forced to leave for health and safety reasons.

Coverage excludes:

- Funding for on-going housing costs.
- Costs for room and board that are not directly associated with transition arrangements while securing other benefits.

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- Home maintenance that is of general utility or cosmetic value and is considered to be a standard housing obligation of the beneficiary.

Replacement or repair of appliances should follow the general rules under assistive technology. Repairs to the home must be in compliance with all local codes and be performed by the appropriate contractor (refer to the general rules of the Environmental Modifications subsection of this chapter). Replacement or repair of appliances, and repairs to the home or apartment do not need a prescription or order from a physician.

*Medicaid Provider Manual  
Mental Health and Substance Abuse Section,  
April 1, 2013, Pages 119-120*

The CMH asserts that they have notified the Appellant since at least ██████████ that the Housing Assistance benefit will end and have tried to provide assistance with alternatives options. (Exhibits 1 and 2; Supports Coordinator Testimony)

The Appellant disagrees with the termination of Housing Assistance services and asserts that the alternative options suggested are not realistic for him. For example, getting a job when the Appellant is ██████████ and has been disabled since birth is not a realistic option. The Appellant also explained that ██████████ suggested he purchase the home, and further that ongoing Housing Assistance services supplementing his portion of the monthly payment was relied upon and allowed him to qualify for the mortgage. (Appellant Testimony; Petitioner's Request for Reasonable Accommodation)

The Appellant submitted a request for reasonable accommodation under the Fair Housing Act, but the case type was misstated on his request. (Petitioner's Request for Reasonable Accommodation) The present case is not a ██████████ hearing. Rather, this is a MDCH hearing and is limited to reviewing Medicaid covered services. The Fair Housing Act is not applicable. Accordingly, there is no authority for this ALJ to grant the Appellant's request for reasonable accommodation under the Fair Housing Act.

The Appellant's reliance on the Housing Assistance that has been provided for ██████████ years to allow him keep the home ██████████ suggested he purchase, as well as the Appellant's concerns with the alternative options that have been suggested are understandable. However, this ALJ does not have any authority to change or make an exception to the Medicaid policy or any equitable authority to grant the relief the Appellant seeks.

The Medicaid Provider Manual Policy specifically excludes funding for ongoing housing costs and costs for room and board that are not directly associated with transition arrangements while securing other benefits. The Housing Assistance the Appellant is

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requesting, specifically ongoing supplementing of the Appellant's monthly mortgage payments for the duration of the mortgage, is not a Medicaid covered service under the Medicaid Provider Manual policy. Accordingly, the termination of Housing Assistance services for the Appellant must be upheld.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH properly terminated the Appellant's Housing Assistance services for ongoing housing costs.

**IT IS THEREFORE ORDERED** that:

The CMH decision is **AFFIRMED**.

/s/

Colleen Lack  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

**\*\*\* 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.