

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

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 14-005996 NHE

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and upon Appellant's Request for Hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████, Long Term Care Program Policy Specialist, represented the Department of Community Health ("DCH" or "Department"). ██████████, Business Office Manager, and ██████████, registered nurse and MDS Coordinator, from ██████████ ("██████████") testified as witnesses for the Department.

ISSUE

Did the Department properly determine that the Appellant does not require a Medicaid reimbursable Nursing Facility Level of Care?

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 ██████ year-old Medicaid beneficiary who was admitted as a resident at ██████████ in ██████████. (Respondent's Exhibit B, page 1; Testimony of ██████████).
2. Medicaid policy requires that nursing facility residents meet the outlined medical/functional criteria found in the Michigan Medicaid Nursing Facility Level of Care Determination ("LOCD") evaluation tool on an ongoing basis in order for Medicaid to reimburse for care. (Medicaid Provider Manual (MPM), ██████████ version, Nursing Facility Chapter, pages 7-16).

3. On ██████████, Appellant was assessed under the LOCD evaluation tool and found to be eligible for nursing facility placement through Door 1 of that tool. (Respondent's Exhibit B, page 1).
4. A subsequent LOCD must be completed when there has been a significant change in condition that may affect the resident's current medical/functional eligibility status and a nursing facility resident must meet the outlined criteria on an ongoing basis. (MPM, ██████████ version, Nursing Facility Chapter, page 11).
5. During his time in the facility, Appellant's health significantly improved and, by ██████████, the only assistance he was receiving was medication administration. (Testimony of Appellant; Testimony of ██████████).
6. On ██████████, Appellant was again assessed under the LOCD evaluation tool, but this time he was found to be ineligible for nursing facility placement based upon his failure to qualify via entry through one of the seven doors of that tool. (Respondent's Exhibit C, page 1).
7. The next day, ██████████, ██████████ issued Appellant written notice that it had been determined that he did not qualify for nursing facility level services based on the LOCD. (Respondent's Exhibit D, page 1).
8. The notice also informed Appellant of his right to appeal that determination. (Respondent's Exhibit D, page 1).
9. On ██████████, the Michigan Administrative Hearing System received the Request for Hearing filed in this matter. (Respondent's Exhibit E, page 1).

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.

Federal regulations require that Medicaid pay for services only for those beneficiaries who meet specified level of care criteria. In accordance with the federal regulations, the Michigan Department of Community Health implemented functional/medical eligibility criteria for Medicaid nursing facility, MI Choice, and PACE services. Nursing facility residents must also meet Pre-Admission Screening/Annual Resident Review requirements.

Section 5 of the Medicaid Provider Manual (MPM), Nursing Facility Chapter, describes the policy and process for admission and continued eligibility, including

functional/medical criteria requirements, for Medicaid-reimbursed nursing facility, MI Choice, and PACE services. (MPM, ██████████ version, Nursing Facility Chapter, pages 7-16).

Section 5.1.D.1 of the Coverages Section of the Nursing Facility Chapter of the MPM references the use of an online Michigan Medicaid Nursing Facility Level of Care Determination (“LOCD”) tool. A LOCD is mandated for all Medicaid-reimbursed admissions to nursing facilities or enrollments in MI Choice or PACE. (MPM, ██████████ version, Nursing Facility Chapter, pages 9-11).

A subsequent LOCD must be completed when there has been a significant change in condition that may affect the resident’s current medical/functional eligibility status and a nursing facility resident must meet the outlined criteria on an ongoing basis. (MPM, ██████████ version, Nursing Facility Chapter, page 11).

The LOCD consists of seven-service entry doors or domains. The doors are: Activities of Daily Living, Cognition, Physician Involvement, Treatments and Conditions, Skilled Rehabilitative Therapies, Behavior, or Service Dependency. (MPM, ██████████ version, Nursing Facility Chapter, page 11).

The ██████████ LOCD was the basis for the action at issue in this case. In order to be found eligible for Medicaid nursing facility coverage the Appellant must have met the requirements of at least one door:

Door 1
Activities of Daily Living (ADLs)

Scoring Door 1: The applicant must score at least six points to qualify under Door 1.

(A) Bed Mobility, (B) Transfers, and (C) Toilet Use:

- Independent or Supervision = 1
- Limited Assistance = 3
- Extensive Assistance or Total Dependence = 4
- Activity Did Not Occur = 8

(D) Eating:

- Independent or Supervision = 1
- Limited Assistance = 2
- Extensive Assistance or Total Dependence = 3
- Activity Did Not Occur = 8

Door 2
Cognitive Performance

Scoring Door 2: The applicant must score under one of the following three options to qualify under Door 2.

1. "Severely Impaired" in Decision Making.
2. "Yes" for Memory Problem, and Decision Making is "Moderately Impaired" or "Severely Impaired."
3. "Yes" for Memory Problem, and Making Self Understood is "Sometimes Understood" or "Rarely/Never Understood."

Door 3
Physician Involvement

Scoring Door 3: The applicant must meet either of the following to qualify under Door 3

1. At least one Physician Visit exam AND at least four Physician Order changes in the last 14 days, OR
2. At least two Physician Visit exams AND at least two Physician Order changes in the last 14 days.

Door 4
Treatments and Conditions

Scoring Door 4: The applicant must score "yes" in at least one of the nine categories above [Stage 3-4 pressure sores; Intravenous or parenteral feedings; Intravenous medications; End-stage care; Daily tracheostomy care, daily respiratory care, daily suctioning; Pneumonia within the last 14 days; Daily oxygen therapy; Daily insulin with two order changes in last 14 days; Peritoneal or hemodialysis] and have a continuing need to qualify under Door 4.

Door 5
Skilled Rehabilitation Therapies

Scoring Door 5: The applicant must have required at least 45 minutes of active ST, OT or PT (scheduled or delivered) in the last 7 days and continues to require skilled rehabilitation therapies to qualify under Door 5.

Door 6
Behavior

Scoring Door 6: The applicant must score under one of the following 2 options to qualify under Door 6.

1. A “Yes” for either delusions or hallucinations within the last 7 days.
2. The applicant must have exhibited any one of the following *behaviors* for at least 4 of the last 7 days (including daily): Wandering, Verbally Abusive, Physically Abusive, Socially Inappropriate/Disruptive, or Resisted Care.

Door 7
Service Dependency

Scoring Door 7: The applicant must be a current participant [and has been a participant for at least one (1) year] and demonstrate service dependency under Door 7.

In this case, ██████████ and the Department determined that Appellant did not pass through any of the above 7 Doors and was therefore ineligible for a nursing facility level of care.

Given the LOCD and the undisputed testimony during the hearing, it is clear that the findings regarding the doors must be affirmed. While Appellant was receiving assistance with medication administration at the time of the LOCD, he was not receiving any assistance related to the tasks identified in Door 1 and he specifically testified that he is independent in those areas. Similarly, while Appellant has medical problems, none of his conditions or behaviors met the criteria for passing through Doors 2, 4 or 6, and the medical treatment Appellant was receiving did not reach the levels required by Doors 3, 4, or 5. Additionally, with respect to Door 7, while Appellant has been a program participant for over a year, he failed to claim or demonstrate service dependency and, instead, simply asked for more time in order to find a new place.

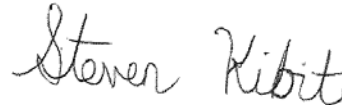
Therefore, given the above findings, the undersigned Administrative Law Judge concludes that the facility and Department properly determined that Appellant did not pass through any of the 7 Doors of the LOCD tool and that Appellant therefore does not require a Medicaid reimbursable Nursing Facility Level of Care.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department correctly determined that Appellant does not require a Medicaid reimbursable Nursing Facility Level of Care.

IT IS THEREFORE ORDERED that:

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



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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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.