

**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. 14-008632 CMH

██████████  
██████████  
**Appellant**  
\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, a hearing was held ██████████. Appellant's father/guardian ██████████ appeared and testified on behalf of the Appellant. ██████████, Co-owner of ██████████ AFC Home, also testified on Appellant's behalf. Appellant was present but did not testify.

██████████, Fair Hearing Officer for ██████████ the County Community Mental Health Authority for ██████████ County, represented the Department of Community Health (CMH). ██████████, LBSW, Supervisor, Community Housing Resource Team (CHRT) for ██████████, and ██████████, LBSW, Contract Manager, CHRT, appeared and testified on behalf of CMH.

**ISSUE**

Did CMH properly deny Appellant's request for additional Community Living Supports (CLS)?

**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 was a ██████████-year-old Medicaid beneficiary (DOB ██████████) at the time of the hearing. Appellant has been diagnosed with Obsessive Compulsive Disorder, Depressive Disorder - NOS, Anxiety Disorder – NOS, and Moderate Mental Retardation. (Exhibit C, p. 1, Exhibit D, pp. 1-2, 5, 19, and testimony).
2. ██████████ (CMH) is responsible for providing Medicaid-covered mental health and developmental disability services to eligible recipients in its service area.

██████████  
Docket No. 14-008632 CMH  
Decision and Order

3. Appellant receives Medicaid covered services as a person with a developmental disability, including supports coordination, psychiatric services, ██████-minute units (██ hours and ██ minutes) per week of Community Living Supports (CLS), and █ points of Personal Care in a licensed setting per day. (Exhibit E and testimony).
4. On ████████████████████, LMSW, of ██████████ a ██████████ provider, completed a Social Work Assessment of the Appellant and recommended that the Appellant continue to receive supports coordination, continue to live in his Adult Foster Care (AFC) home, continue to receive psychiatric services through ██████████ and continue to have a behavior support plan to increase coping skills and social interaction. (Exhibit D, pp. 4-17).
5. On ████████████████████ completed a B3/CLS Support Needs Worksheet and the Personal Care Worksheet for the Appellant and requested █ points of Personal Care per day and ██████-minute units of CLS per week for the Appellant. (Exhibit D, pp. 1-3).
6. On ██████████, ██████████ LBSW, Supervisor of the Community Housing Resource Team (CHRT) for ██████████ reviewed ██████████ request and determined that █ points of personal care per day and ██████-minute units of CLS per week were medically necessary to meet the Appellant's needs. (Exhibit E).
7. On ████████████████████ and her supervisor ██████████olise expressed disagreement with ██████████ determination and recommended that Appellant be authorized additional CLS units for money management, for socialization to prevent isolation by the Appellant, and for staff to observe, guide and teach Appellant in regards to leisure choice and/or community activities. (Exhibit E).
8. On ████████████████████, Contract Manager, CHRT, reviewed the information submitted on the Appellant's behalf by ██████████ and █. ██████████ determined that █ points of personal care per day and █ units of CLS per week were medically necessary to meet the Appellant's needs. (Exhibit E).
9. On ████████████████████ sent Appellant's guardian an Adequate Action Notice stating that they were authorizing community living supports (CLS) in a licensed AFC at a lesser amount than requested. (Exhibit C).
10. On ████████████████████, MAHS received the Appellant's Request for Hearing. (Exhibit B, pp. 2-3).

**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) Medicaid Managed Specialty Services waiver. Kalamazoo County Community Mental Health (CMH) contracts with the Michigan Department of Community Health to provide specialty mental health services. Services are provided by CMH pursuant to its contract obligations with the Department and in accordance with the federal waiver.

In performing the terms of its contract with the Department, the PIHP must apply Medicaid funds only to those services deemed medically necessary or appropriate. The Department's policy regarding medical necessity provides as follows:

## **2.5 MEDICAL NECESSITY CRITERIA**

The following medical necessity criteria apply to Medicaid mental health, developmental disabilities, and substance abuse supports and services.

### **2.5.A. MEDICAL NECESSITY CRITERIA**

Mental health, developmental disabilities, and substance abuse services are supports, services, and treatment:

- Necessary for screening and assessing the presence of a mental illness, developmental disability or substance use disorder; and/or
- Required to identify and evaluate a mental illness, developmental disability or substance use disorder; and/or
- Intended to treat, ameliorate, diminish or stabilize the symptoms of mental illness, developmental disability or substance use disorder; and/or
- Expected to arrest or delay the progression of a mental illness, developmental disability, or substance use disorder; and/or
- Designed to assist the beneficiary to attain or maintain a sufficient level of functioning in order to achieve his goals of community inclusion and participation, independence, recovery, or productivity.

### **2.5.B. DETERMINATION CRITERIA**

The determination of a medically necessary support, service or treatment must be:

- Based on information provided by the beneficiary, beneficiary's family, and/or other individuals (e.g., friends, personal assistants/aides) who know the beneficiary; and
- Based on clinical information from the beneficiary's primary care physician or health care professionals with relevant qualifications who have evaluated the beneficiary; and
- For beneficiaries with mental illness or developmental disabilities, based on person-centered planning, and for beneficiaries with substance use disorders, individualized treatment planning; and

- Made by appropriately trained mental health, developmental disabilities, or substance abuse professionals with sufficient clinical experience; and
- Made within federal and state standards for timeliness; and
- Sufficient in amount, scope and duration of the service(s) to reasonably achieve its/their purpose.

### **2.5.C. SUPPORTS, SERVICES AND TREATMENT AUTHORIZED BY THE PIHP**

Supports, services, and treatment authorized by the PIHP must be:

- Delivered in accordance with federal and state standards for timeliness in a location that is accessible to the beneficiary; and
- Responsive to particular needs of multi-cultural populations and furnished in a culturally relevant manner; and
- Responsive to the particular needs of beneficiaries with sensory or mobility impairments and provided with the necessary accommodations; and
- Provided in the least restrictive, most integrated setting. Inpatient, licensed residential or other segregated settings shall be used only when less restrictive levels of treatment, service or support have been, for that beneficiary, unsuccessful or cannot be safely provided; and
- Delivered consistent with, where they exist, available research findings, health care practice guidelines, best practices and standards of practice issued by professionally recognized organizations or government agencies.

### **2.5.D. PIHP DECISIONS**

Using criteria for medical necessity, a PIHP may:

Deny Services:

- that are deemed ineffective for a given condition based upon professionally and scientifically recognized and accepted standards of care;
- that are experimental or investigational in nature; or
- that are for which there exists another appropriate, efficacious, less-restrictive and cost-effective service, setting or support that otherwise satisfies the standards for medically-necessary services; and/or

- Employ various methods to determine amount, scope and duration of services, including prior authorization for certain services, concurrent utilization reviews, centralized assessment and referral, gate-keeping arrangements, protocols, and guidelines.

A PIHP may not deny services based **solely** on preset limits of the cost, amount, scope, and duration of services. Instead, determination of the need for services shall be conducted on an individualized basis. [*Medicaid Provider Manual, Mental Health/Substance Abuse*, July 1, 2014, pp. 12-14].

The *Medicaid Provider Manual, Mental Health/Substance Abuse*, July 1, 2014 specifies what supports and services are available for persons such as the Appellant. It states in pertinent part:

**SECTION 11 – PERSONAL CARE IN LICENSED SPECIALIZED RESIDENTIAL SETTINGS**

Personal care services are those services provided in accordance with an individual plan of service to assist a beneficiary in performing his own personal daily activities. Services may be provided only in a licensed foster care setting with a specialized residential program certified by the state. These personal care services are distinctly different from the state plan Home Help program administered by DHS.

Personal care services are covered when authorized by a physician or other health care professional in accordance with an individual plan of services, and rendered by a qualified person. Supervision of personal care services must be provided by a health care professional who meets the qualifications contained in this chapter.

**11.1 SERVICES**

Personal care services include assisting the beneficiary to perform the following:

- Assistance with food preparation, clothing and laundry, and housekeeping beyond the level required by facility licensure, (e.g., a beneficiary requires special dietary needs such as pureed food);
- Eating/feeding;
- Toileting;

- Bathing;
- Grooming;
- Dressing;
- Transferring (between bed, chair, wheelchair, and/or stretcher);
- Ambulation; and
- Assistance with self-administered medications.

"Assisting" means staff performs the personal care tasks for the individual; or performs the tasks along with the individual (i.e., some hands-on); or otherwise assists the individual to perform the tasks himself/herself by prompting, reminding, or by being in attendance while the beneficiary performs the task(s). [p. 66].

\* \* \*

## **SECTION 17 – ADDITIONAL MENTAL HEALTH SERVICES (B3s)** **[Change Made 7/1/14]**

PIHPs must make certain Medicaid-funded mental health supports and services available, in addition to the Medicaid State Plan Specialty Supports and Services or Habilitation Waiver Services, through the authority of 1915(b)(3) of the Social Security Act (hereafter referred to as B3s). The intent of B3 supports and services is to fund medically necessary supports and services that promote community inclusion and participation, independence, and/or productivity when identified in the individual plan of service as one or more goals developed during person-centered planning. NOTE: Certain services found in this section are State Plan EPSDT services when delivered to children birth-21 years, which include community living supports, family support and training (Parent-to-Parent/Parent Support Partner) peer-delivered services, prevention/direct models of parent education and services for children of adults with mental illness, skill building, supports coordination, and supported employment. **(text added 7/1/14)**

### **17.1 DEFINITIONS OF GOALS THAT MEET THE INTENTS AND PURPOSE OF B3 SUPPORTS AND SERVICES [Change Made 7/1/14]**

The goals (listed below) and their operational definitions will vary according to the individual's needs and desires. However, goals that are inconsistent with least restrictive environment (i.e., most integrated home,

work, community that meet the individual's needs and desires) and individual choice and control cannot be supported by B3 supports and services unless there is documentation that health and safety would otherwise be jeopardized; or that such least restrictive arrangements or choice and control opportunities have been demonstrated to be unsuccessful for that individual. Care should be taken to insure that these goals are those of the individual first, not those of a parent, guardian, provider, therapist, or case manager, no matter how well intentioned. The services in the plan, whether B3 supports and services alone, or in combination with state plan or Habilitation Supports Waiver services, must reasonably be expected to achieve the goals and intended outcomes identified. The configuration of supports and services should assist the individual to attain outcomes that are typical in his community; and without such services and supports, would be impossible to attain.

### **Community Inclusion and Participation**

The individual uses community services and participates in community activities in the same manner as the typical community citizen.

Examples are recreation (parks, movies, concerts, sporting events, arts classes, etc.), shopping, socialization (visiting friends, attending club meetings, dining out) and civic (volunteering, voting, attending governmental meetings, etc.) activities. A beneficiary's use of, and participation in, community activities are expected to be integrated with that of the typical citizen's (e.g., the beneficiary would attend an "integrated" yoga class at the community center rather than a special yoga class for persons with intellectual disability).

### **Independence**

"Freedom from another's influence, control and determination." (Webster's New World College Dictionary, 1996). Independence in the B3 context means how the individual defines the extent of such freedom for him/herself during person-centered planning.

For example, to some beneficiaries, "freedom" could be living on their own, controlling their own budget, choosing an apartment as well as the persons who will live there with them, or getting around the community on their own. To others, "freedom" could be control over what and when to eat, what and when to watch television, when and how to bathe, or when to go to bed and arise. For children under 18 years old, independence may mean the support given by parents and others to help children achieve the skills they need to be successful in school, enter adulthood and live independently.

## **Productivity**

Engaged in activities that result in or lead to maintenance of or increased self sufficiency. Those activities are typically going to school and work. The operational definition of productivity for an individual may be influenced by age-appropriateness.

For example, a person who is 76 years old may choose to volunteer or participate in other community or senior center activities rather than have any productivity goals. For children under the age of five years, productivity may be successful participation in home, pre-school, or child care activities. Children under 18 would be expected to attend school, but may choose to work in addition. In order to use B3 supports and services, individuals would be expected to prepare for, or go to, school or work in the same places that the typical citizen uses.

## **17.2 CRITERIA FOR AUTHORIZING B3 SUPPORTS AND SERVICES**

The authorization and use of Medicaid funds for any of the B3 supports and services, as well as their amount, scope and duration, are dependent upon:

- The Medicaid beneficiary's eligibility for specialty services and supports as defined in this Chapter; and
- The service(s) having been identified during person-centered planning; and
- The service(s) being medically necessary as defined in the Medical Necessity Criteria subsection of this chapter; and
- The service(s) being expected to achieve one or more of the above-listed goals as identified in the beneficiary's plan of service; and
- Additional criteria indicated in certain B3 service definitions, as applicable.

Decisions regarding the authorization of a B3 service (including the amount, scope and duration) must take into account the PIHP's documented capacity to reasonably and equitably serve other Medicaid beneficiaries who also have needs for these services. The B3 supports and services are not intended to meet all the individual's needs and preferences, as some needs may be better met by community and other natural supports. Natural supports mean unpaid assistance provided to the beneficiary by people in his/her network (family, friends, neighbors, community volunteers) who are willing and able to provide such assistance. It is reasonable to expect that parents of minor children with disabilities will provide the same level of care they would provide to

their children without disabilities. MDCH encourages the use of natural supports to assist in meeting an individual's needs to the extent that the family or friends who provide the natural supports are willing and able to provide this assistance. PIHPs may not require a beneficiary's natural support network to provide such assistance as a condition for receiving specialty mental health supports and services. The use of natural supports must be documented in the beneficiary's individual plan of service.

Provider qualifications and service locations that are not otherwise identified in this section must meet the requirements identified in the General Information and Program Requirement sections of this chapter.

### **17.3 B3 SUPPORTS AND SERVICES**

The B3 supports and services defined below are the supports and services that PIHPs are to provide from their Medicaid capitation. [pp. 117-118].

\* \* \*

#### **17.3.B. COMMUNITY LIVING SUPPORTS [Change Made 7/1/14]**

NOTE: This service is a State Plan EPSDT service when delivered to children birth-21 years. **(text added 7/1/14)**

Community Living Supports are used to increase or maintain personal self-sufficiency, facilitating an individual's achievement of his goals of community inclusion and participation, independence or productivity. The supports may be provided in the participant's residence or in community settings (including, but not limited to, libraries, city pools, camps, etc.).

Coverage includes:

- Assisting, reminding, observing, guiding and/or training in the following activities:
  - meal preparation
  - laundry
  - routine, seasonal, and heavy household care and maintenance
  - activities of daily living (e.g., bathing, eating, dressing, personal hygiene)
  - shopping for food and other necessities of daily living

CLS services may not supplant state plan services, e.g., Personal Care (assistance with ADLs in a certified specialized residential

setting) and Home Help or Expanded Home Help (assistance in the individual's own, unlicensed home with meal preparation, laundry, routine household care and maintenance, activities of daily living and shopping). If such assistance appears to be needed, the beneficiary must request Home Help and, if necessary, Expanded Home Help from the Department of Human Services (DHS). CLS may be used for those activities while the beneficiary awaits determination by DHS of the amount, scope and duration of Home Help or Expanded Home Help. If the beneficiary requests it, the PIHP case manager or supports coordinator must assist him/her in requesting Home Help or in filling out and sending a request for Fair Hearing when the beneficiary believes that the DHS authorization of amount, scope and duration of Home Help does not appear to reflect the beneficiary's needs based on the findings of the DHS assessment.

- Staff assistance, support and/or training with activities such as:
  - money management
  - non-medical care (not requiring nurse or physician intervention)
  - socialization and relationship building
  - transportation from the beneficiary's residence to community activities, among community activities, and from the community activities back to the beneficiary's residence (transportation to and from medical appointments is excluded)
  - participation in regular community activities and recreation opportunities (e.g., attending classes, movies, concerts and events in a park; volunteering; voting)
  - attendance at medical appointments
  - acquiring or procuring goods, other than those listed under shopping, and non-medical services
- Reminding, observing and/or monitoring of medication administration
- Staff assistance with preserving the health and safety of the individual in order that he/she may reside or be supported in the most integrated, independent community setting.

CLS may be provided in a licensed specialized residential setting as a complement to, and in conjunction with, state plan coverage Personal Care in Specialized Residential Settings. Transportation to medical appointments is covered by Medicaid through DHS or the Medicaid Health Plan. Payment for CLS services may not be made, directly or indirectly, to

██████████  
**Docket No. 14-008632 CMH**  
**Decision and Order**

responsible relatives (i.e., spouses, or parents of minor children), or guardian of the beneficiary receiving community living supports.

CLS **assistance** with meal preparation, laundry, routine household care and maintenance, activities of daily living and/or shopping may be used to complement Home Help or Expanded Home Help services when the individual's needs for this assistance have been officially determined to exceed the DHS's allowable parameters. CLS may also be used for those activities while the beneficiary awaits the decision from a Fair Hearing of the appeal of a DHS decision. Reminding, observing, guiding, and/or training of these activities are CLS coverages that do not supplant Home Help or Expanded Home Help.

Community Living Supports (CLS) provides support to a beneficiary younger than 18, and the family in the care of their child, while facilitating the child's independence and integration into the community. This service provides skill development related to activities of daily living, such as bathing, eating, dressing, personal hygiene, household chores and safety skills; and skill development to achieve or maintain mobility, sensorymotor, communication, socialization and relationship-building skills, and participation in leisure and community activities. These supports must be provided directly to, or on behalf of, the child. These supports may serve to reinforce skills or lessons taught in school, therapy, or other settings. For children and adults up to age 26 who are enrolled in school, CLS services are not intended to supplant services provided in school or other settings or to be provided during the times when the child or adult would typically be in school but for the parent's choice to home-school. (Emphasis added). [pp. 120-121].

In this case, it is undisputed that CLS services are medically necessary for the Appellant. Appellant requested ██████████ minute units of CLS per week, but was authorized to receive ██████████ minute units of CLS per week. Appellant appealed the denial of the additional CLS units requested.

The witnesses for CMH provided credible evidence to show that they properly assessed the Appellant's need for Community Living Supports (CLS) to be provided by the staff at the ██████████ AFC Home. ██████████, LBSW, Supervisor of the Community Housing Resource Team (CHRT) for ██████████ reviewed ██████████ request for █ points per day of Personal Care and ██████████ minute units of CLS per week submitted on behalf of the Appellant. He agreed with the █ points of personal care per day requested, but found that only ██████████ minute units of CLS per week were medically necessary to meet the Appellant's needs.

██████████ reviewed the Social Work Assessment, the Behavior Support Plan, and the Personal Care Needs and the B3/CLS Support Needs Worksheets used by ██████████ that were submitted by ██████████ in support of her request for █ points per day

**Docket No. 14-008632 CMH**  
**Decision and Order**

of Personal Care and -minute units of CLS per week on behalf of the Appellant. established that each Personal Care point is valued at for a daily rate of ; the CLS -minute units are valued at per unit for a daily rate of for the daily CLS units; resulting in a total daily rate of for the requested Personal Care and CLS.

established that he looked at the services being provided to the Appellant that were indicated in the Social Work Assessment and the Behavior Support Plan. He found that he agreed with the Personal Care requested, but not the CLS requested. reviewed each of the categories for CLS services listed on the B3/CLS Support Needs Worksheet and noted his changes for the categories where he disagreed with the requested number of units. found that many of the requested amounts were not supported by the documentation submitted by and it did not establish medical necessity for the requested CLS units.

lowered laundry down to units from the requested as the Appellant's incontinence was not documented as being on a daily basis. For household care he lowered it down to units from the requested because the staff was providing verbal support that would not require the total amount of time requested. Shopping was lowered from units to because it was a group activity not a activity, so the full time could not be given on the Appellant's behalf. found no medical necessity for CLS units for money management because the Appellant has a representative payee and his moderate mental retardation precluded him from gaining money management skills. He lowered socialization from to units because the services provided were largely group outings, and leisure was reduced from to again because the activities were largely group activities, so the full time could not be given on the Appellant's behalf for these activities. No units were given for medical appointments because natural supports from his father addressed attendance at his medical appointments. found that CLS units per week were sufficient to meet the Appellant's needs. stated the daily rate approved for the Appellant would be for Personal Care and 0 for CLS units or a daily total of .

and her supervisor with expressed disagreement with determination. They requested a re-review and recommended that Appellant be authorized additional CLS units for money management, for socialization to prevent isolation by the Appellant, and for staff to observe, guide and teach Appellant in regards to leisure choice and/or community activities.

Thereafter, , LBSW, the CHRT Contract Manager reviewed the information submitted on the Appellant's behalf by and agreed with the points of Personal Care per day, but found that only units of CLS per week were medically necessary to meet the Appellant's needs.

found that meal prep, laundry, and household care requested as CLS services were somewhat duplicative with the services being provided under Personal Care and she found that units each of CLS were sufficient to meet the Appellant's

**Docket No. 14-008632 CMH**  
**Decision and Order**

needs in these areas. She found no medical necessity for CLS units for shopping since Appellant has a payee and the shopping trips were more of a leisure choice for the Appellant. No medical necessity was found for money management because the Appellant has moderate mental retardation and also has a payee. [REDACTED] did agree with the request for [REDACTED] units of CLS for socialization due to the need to keep Appellant from isolating himself. She also agreed with [REDACTED] assessment of the units to be approved for leisure. [REDACTED] concluded that only [REDACTED] minute units of CLS per week were necessary to meet the Appellant's needs for CLS services. [REDACTED]. [REDACTED] stated the daily rate approved for the Appellant would be [REDACTED] for Personal Care and [REDACTED] for CLS units or a daily total of [REDACTED].

Appellant's father/guardian testified [REDACTED] co-owner of the [REDACTED] AFC Home was now the Appellant's representative payee. [REDACTED] the other co-owner of the [REDACTED] AFC Home testified that the Appellant's needs haven't changed in the three years that he has been living in their AFC home. She testified they take the Appellant on community outings with a [REDACTED]-to-[REDACTED] ratio staff many times, but many times it is on a one-to-one ratio. [REDACTED] said they spend more time than the allotted [REDACTED] units authorized for socialization. She disagreed with [REDACTED] that things were being duplicated in the time requested for personal care and CLS because they do teaching, training, guiding, and assisting in addition to the personal care.

[REDACTED] said they try to teach Appellant about money management by having him return returnable cans and having him spend the refund at the [REDACTED]. She stated that Appellant had developed some increased medical needs since the assessment in [REDACTED], such as hypotension, he had double lung pneumonia in the past couple of months and was hospitalized, and he also has a heart condition that needs to be monitored. [REDACTED] indicated that they have recently obtained a pulsometer, a blood pressure cup, and a defibrillator in case they might be needed in the future to assist the Appellant. She also indicated the Appellant is very incontinent, but it also appears that sometimes he intentionally wets his pants.

The Appellant bears the burden of proving by a preponderance of the evidence that additional units of CLS services are medically necessary. The Appellant's witnesses were given the opportunity to prove why additional CLS units are necessary. The testimony of the Appellant's witnesses did not establish medical necessity above and beyond the number of CLS units currently being authorized by CMH in accordance with the Code of Federal Regulations (CFR). The testimony of the Appellant's witnesses did not provide specific details about the Appellant's care which demonstrate that the CHRT staff erred in determining the number of CLS units that are medically necessary to meet the Appellant's needs. Furthermore, the information provided at the hearing, especially the medical information was not contained in the Social Work Assessment or the Behavior Support Plan submitted along with the request by [REDACTED] for additional CLS services. The review in this case is limited to the information CMH had available to them on [REDACTED] when they made their final determination not to authorize the additional CLS units requested.

**Docket No. 14-008632 CMH**  
**Decision and Order**

The CMH must authorize CLS services in accordance with the CFR and state policy. The CMH provided sufficient evidence that it adhered to the CFR and state policy when it authorized [REDACTED] minute units of CLS for the Appellant, in addition to the other Medicaid services the Appellant has been authorized to receive. Based upon the totality of the evidence, including the professional opinions of the CMH staff [REDACTED] units of CLS are sufficient to meet the Appellant's needs for CLS services.

It also must be noted that the CLS services are apparently being authorized as B3 services. As stated above in the policy quoted from the Medicaid provider manual, B3 supports and services are not intended to meet all the individual's needs and preferences, as some needs may be better met by community and other natural supports such as the Appellant's parent.

The Appellant has failed to prove by a preponderance of the evidence that additional units of CLS services are medically necessary. The preponderance of the evidence demonstrates that CMH properly determined that [REDACTED]-minute units of CLS were sufficient to meet the Appellant's need for CLS services.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the authorization of [REDACTED]-minute units of Community Living Supports are sufficient in amount, scope and duration to meet the Appellant's need for CLS services.

**IT IS THEREFORE ORDERED** that:

The CMH's decision is AFFIRMED.



William D. Bond  
Administrative Law Judge  
for Nick Lyon, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed [REDACTED]

WDB/db

cc: [REDACTED]

**Docket No. 14-008632 CMH**  
**Decision and Order**

**\*\*\* 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.