

**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. 2014-34659 EDW
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, following the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on her own behalf.

██████████, Data Supports Supervisor, appeared on behalf of ██████████, Inc., the Department's MI Choice Program Waiver Agency (Waiver Agency or ██████████). ██████████, Social Worker, Support Coordinator and ██████████, RN, BSN, Support Coordinator, appeared as witnesses for the Waiver Agency.

ISSUE

Did the Waiver Agency properly deny Appellant's request for reimbursement for plumbing work done in her home?

FINDINGS OF FACT

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

1. Appellant is a ██████ year old Medicaid beneficiary, born ██████████. (Exhibit 2, p 2)
2. On ██████████, Appellant called her Support Coordinator stating that her toilet was overflowing and asked if the Waiver Agency could pay to have it repaired. The Support Coordinator explained that the Waiver Agency is the payer of last resort and recommended that Appellant contact a family member, friend, neighbor, or church member to see if they could make the repair. The Support Coordinator instructed Appellant to call back if she could not get assistance informally so that the Support Coordinator could then

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determine if the Waiver Agency could authorize the service. (Exhibit A; Testimony)

3. On [REDACTED], Appellant contacted the Support Coordinator and informed her that she was able to get a church member to repair the toilet, that the invoice was for \$ [REDACTED], and that Appellant wanted the Waiver Agency to pay the invoice. Appellant was informed that the Waiver Agency could not reimburse her for the cost of the repairs because the repairs were not pre-authorized and because Appellant did not give the Waiver Agency a chance to pursue payment for the work through other Agencies, such as the Department of Human Services (DHS). (Exhibit A; Testimony)
4. On [REDACTED], the Waiver Agency sent Appellant an Adequate Action Notice informing her that her request to have the repair bill paid was denied. The Notice included Appellant's rights to a Medicaid fair hearing. (Exhibit 1; Testimony)
5. Appellant's request for a formal, administrative hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (Exhibit 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.

This Appellant is claiming eligibility for services through the Department's Home and Community Based Services for Elderly and Disabled (HCBS/ED). The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicaid and Medicare Services to the Michigan Department of Community Health (Department). Regional agencies, in this case, A&D Home Health Care, Inc., 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)

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1915(c) (42 USC 1396n (c) allows home and community based services to be classified as “medical assistance” under the State Plan when furnished to recipients who would otherwise need inpatient care that is furnished in a hospital SNF, ICF or ICF/MR and is reimbursable under the State Plan. (42 CFR 430.25(b))

Policy for the MI Choice Waiver Program is found in the Medicaid Provider Manual (MPM). With regard to Services, the MPM states, in relevant part:

SECTION 4 - SERVICES

The array of services provided by the MI Choice program is subject to the prior approval of CMS. Waiver agencies are required to provide any waiver service from the federally approved array that a participant needs to live successfully in the community, that is:

- indicated by the current assessment;
- detailed in the plan of service; and
- provided in accordance with the provisions of the approved waiver.

Services must not be provided unless they are defined in the plan of service and must not precede the establishment of a plan of service.

* * * *

4.1.G. GOODS AND SERVICES

Goods and Services are services, equipment or supplies not otherwise provided through either MI Choice or the Medicaid State Plan that address an identified need in the individual plan of services (including improving and maintaining the participant’s opportunities for full membership in the community) and meet the following requirements. The item or service would:

- decrease the need for other Medicaid services,
- promote inclusion in the community, and

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- increase the participant's safety in the home environment.

These goods and services are only available if the participant does not have the funds to purchase the item or service or the item or service is not available through another source.

Goods and Services are only approved by CMS for self-direction participants. Experimental or prohibited treatments are excluded. Goods and Services must be documented in the individual plan of services.

Medicaid Provider Manual
MI Choice Waiver Chapter
April 1, 2014; pp 9-11

Based on the evidence presented, the Waiver Agency properly denied payment for the requested services. Here, Appellant was instructed to see if any informal supports would be able to fix the issue she was having with her plumbing and to call the Waiver Agency back if no such supports were available so that the Waiver Agency could determine if it could authorize the services or if another Agency might be able to assist. Instead, Appellant found someone to complete the services and then contacted the Waiver Agency to pay the bill. Clearly, the Waiver Agency cannot provide services to participants that are not approved in advance and here, the Waiver Agency was not given an opportunity to review and approve the services before they were completed. The Waiver Agency, as payer of last resort, was also not given an opportunity to pursue payment for the repairs through another Agency. Accordingly, the Waiver Agency properly denied Appellant's request for reimbursement for plumbing work done in her home.

Appellant was advised at the hearing to try contacting her DHS worker to see if they could help with reimbursement for the repairs.

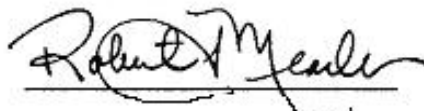
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DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Waiver Agency properly denied Appellant's request for reimbursement for plumbing work done in her home.

IT IS THEREFORE ORDERED that:

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



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

cc:

[Redacted]

RJM

Date Signed:

[Redacted]

May 23, 2014

***** 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.