



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 15, 2016
MAHS Docket No.: 16-005033
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

AMENDED DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on [REDACTED]. Petitioner [REDACTED] and her boyfriend [REDACTED] appeared on behalf of the Petitioner. [REDACTED], Clinical Services Manager and [REDACTED], Care Manager appeared to testify and represent the Respondent [REDACTED] ([REDACTED] or ICO).

Respondent's Exhibit A pages 1-30 were admitted as evidence.

ISSUE

Did the ICO properly determine that Petitioner is eligible to receive 29 hours of Personal Care Service (PCS) hours per month?

FINDINGS OF FACT

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

1. [REDACTED] ([REDACTED] or ICO) is a qualified Health Plan contracted with the State of Michigan Comprehensive Health Care Program.
2. Petitioner was an enrolled member with the ICO at the time of the request for services and continues to be enrolled.

3. The [REDACTED] Plan Member Handbook and Certificate of Coverage were sent at the time of enrollment. The Member Handbook outlines coverage limitations, prior authorization requirements, limitations and exclusions, and the pharmacy guidelines.
4. Petitioner is a Medicaid/Medicare beneficiary.
5. Petitioner was determined eligible for 64 hours of Home Help Services per month by the Michigan Department of Health and Human Services.
6. On [REDACTED] Petitioner was enrolled in MI Health Link, with the ICO as the health provider.
7. Upon transfer to the ICO, the ICO assessed Petitioner was having a need for 34 hours per month of personal care services, but because of continuity of care they continued the HHS established hours of 64 hours per month.
8. On [REDACTED], the ICO conducted a personal care reassessment and determined that Petitioner was entitled to receive 29 hours of PCS per month effective [REDACTED].
9. On [REDACTED], an Integrated Denial notice was sent to Petitioner that her PCS hours were reduced to 29 hours per month because she was assessed a level '3' for bathing, mobility and shopping. She was assessed '4' for laundry and light housekeeping. Per MI Health Link reasonable time schedule Petitioner is allowed 29 hours of personal care services.
10. On [REDACTED] the Michigan Administrative Hearing system received a Request for Hearing to contest the reduction of PCS.
11. On [REDACTED], [REDACTED] received the Request for Hearing.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

5.1 STATE PLAN PERSONAL CARE SERVICES

For individuals enrolled in the MI Health Link program, State Plan personal care services will be provided and paid for by the ICO and will no longer be provided through the Medicaid

Home Help program. Personal care services are available to individuals who require hands-on assistance in activities of daily living (ADLs) (i.e., eating, toileting, bathing, grooming, dressing, mobility, and transferring) as well as hands-on assistance in instrumental activities of daily living (IADLs) (i.e., personal laundry, light housekeeping, shopping, meal preparation and cleanup, and medication administration).

Personal care services are available to individuals living in their own homes or the home of another. Services may also be provided outside the home for the specific purpose of enabling an individual to be employed.

Providers shall be qualified individuals who work independently, contract with, or are employed by an agency. The ICO may directly hold provider agreements or contracts with independent care providers of the individual's choice, if the provider meets MDHHS qualification requirements, to provide personal care services. Individuals who currently receive personal care services from an independent care provider may elect to continue to use that provider. The individual may also select a new provider if that provider meets State qualifications. Paid family caregivers will be permitted to serve as a personal care provider in accordance with the state's requirements for Medicaid State Plan personal care services.

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5.1.B. ASSESSMENT REQUIREMENTS

During the Level I Assessment, ICO Care Coordinators (or designee who meets the qualifications for an ICO Care Coordinator) must consider if the individual may need personal care services. If the ICO Care Coordinator believes the individual may be eligible for MI Health Link personal care services, the ICO Care Coordinator will conduct the Personal Care Assessment. The face-to-face, comprehensive assessment is the basis for determining and authorizing the amount, scope and duration, and payment of services. The individual needs to be reassessed at least quarterly or with a change of functional and/or health status to determine and authorize the amount, scope and duration,

and payment of services. The reassessment must be face-to-face.

ADLs and IADLs are ranked by the ICO Care Coordinator during the Personal Care Assessment. Through the assessment, ADLs and IADLs are assessed according to the following five point scale, where 1 is totally independent and 5 requires total assistance.

- **Independent:** The individual performs the activity with no human assistance.
- **Verbal assistance:** The individual performs the activity with verbal assistance such as reminding, guiding or encouraging.
- **Minimal human assistance:** The individual performs the activity with some direct physical assistance and/or assistance technology.
- **Moderate human assistance:** The individual performs the activity with a great deal of human assistance and/or assistive technology.
- **Dependent** The individual does not perform the activity even with human assistance and/or assistance technology.

An individual must be assessed with need for assistance with at least one ADL to be eligible to receive personal care services. Payment for personal care services may only be authorized for needs assessed at the level three (3) ranking or greater. In addition, the individual must have an ADL functional ranking of three (3) or greater to be eligible for IADL services. Once an individual is determined eligible for personal care services, his/her authorized ADL and IADL services and the amount, scope and duration must be included in the Individual Integrated Care and Supports Plan (IICSP).

5.1.C. PERSONAL CARE SERVICES AND THE MI HEALTH LINK HCBSWAIVER

If an individual ranks at a level 1 or 2, he/she will not be eligible for State Plan Personal Care Services through MI Health Link. If an individual ranks at a level 2, he/she may be eligible for ADL assistance through the MI Health Link HCBS waiver Expanded Community Living Supports (ECLS) benefit if the individual requires prompting, cueing, guiding,

teaching, observing, or reminding to complete ADLs. Through the MI Health Link HCBS waiver, an individual may receive IADL assistance if he/she receives prompting, cueing, guiding, etc. to complete ADLs.

ECLS may be provided in addition to State Plan Personal Care Services if the individual requires hands-on assistance with some ADLs, as covered under Personal Care Services, but requires prompting, cueing, guiding, teaching, observing, reminding, or other support (not hands-on) to complete other ADLs and IADLs independently to ensure safety, health, and welfare of the individual.

5.1.D. REASONABLE TIME AND TASK

When a task (activity) is assigned to a specific provider, the rank of the activity is used against a Reasonable Time Schedule (RTS) table to determine the recommended time that activity should be assigned. Providers should use the RTS table provided by MDHHS to record and report minutes spent delivering services. The maximum amount is across all assigned providers for an individual, so these are case maximums. When an individual's needs exceed the hours recommended by the RTS, a rationale must be provided and maintained in the individual's record.

*Medicaid Provider Manual, MI Health Link
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The ICO has established by the necessary competent, substantial and material evidence on the record that it was acting in accordance with Department policy when it issued an Integrated Denial Notice was mailed to Petitioner, informing Petitioner that Personal Care services would be reduced to 29 hours per week based upon the [REDACTED] [REDACTED] personal care assessment.

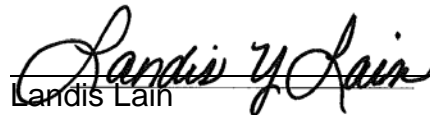
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the ICO properly reduced the Petitioner's Personal Care Services based upon the evidence contained in the record.

IT IS, THEREFORE, ORDERED that:

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

LL ■



Landis Lain

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

Petitioner

[REDACTED]

DHHS -Dept Contact

[REDACTED]

DHHS Department Rep.

[REDACTED]

Community Health Rep

[REDACTED]