



Date Mailed: February 28, 2025

Docket No.: 25-001964

Case No.: [REDACTED]

Petitioner: [REDACTED]

This is an important legal document. Please have someone translate the document.

هذه وثيقة قانونية مهمة. يرجى أن يكون هناك شخص ما يترجم المستند.

এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 42 CFR 431.200 *et seq.* and 42 CFR 438.400 *et seq.* upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on February 25, 2025. [REDACTED], Petitioner appeared and testified on her own behalf. Attorney Brianna Miller appeared on behalf of Respondent HAP Caresource, the Medicaid Health Plan (MHP) Dustin Herring, RN, Clinical Appeals Nurse; Ravona De Almeida, Team Lead; and Dr. David Koahler, Medical Director, appeared as witnesses for Respondent.

ISSUE

Did the MHP properly assess Petitioner's Personal Care (PC) services?

FINDINGS OF FACT

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

1. Petitioner is a Medicaid beneficiary who is enrolled in Respondent's MHP. (Exhibit A; Testimony.)
2. On July 26, 2024, a six-month PC reassessment was conducted in Petitioner's home. (Exhibit C; Testimony).
3. On August 1, 2024, Respondent sent Petitioner a Notice of Denial of Medical Coverage in which it notified Petitioner that her PC services had been reduced. (Exhibit D; Testimony.) Specifically, the Notice indicated:

We reduced the medical services listed above because you have been receiving 40 hours of Personal Care Services per week. A new personal care assessment was completed on 7/26/24. The assessment assigns time and task based on your ability to do your daily activities. Based on the results, it has been decided that the right number of personal care hours is to be 8 hours per week. This will be a reduction in your current Personal Care services. You shared with your care coordinator that you agree with the reduction. This reduction will begin on 8/11/24. The first week will be reduced to 20 hours per week, then 8 hours per week thereafter.

We made this decision because of information given in addition to what our clinician observed during the assessment. You had significant increased independence changes to toileting, bathing, dressing, grooming from limited and extensive assistance to supervision or independent with occasional incidents where partner assists. We now see that previous complex care needs have been discontinued and you no longer require suctioning and are able to manage your trachea independently. We now see that you are not bed bound or wheelchair bound that would justify additional care service time as previously identified ROM exercises and your partner is assisting you with ROM exercises. Therefore, you are now approved for 8 hours of Personal Care Services per week. This is appropriate to meet your needs.

(Exhibit D, pp 30-31; Testimony.)

4. On or about August 23, 2024, Petitioner requested an internal appeal. (Exhibit E; Testimony.)
5. On September 20, 2024, Respondent sent Petitioner a Notice of Appeal Decision. (Exhibit I; Testimony.) The Notice indicated, in relevant part:

We denied your appeal for the service/item listed above because: We reviewed your request for 40 hours of personal care aide services each week. You are [REDACTED] years old. # You have cancer with pain and swelling. # We approved 8 hours of these services each week. # There is no clear record that your condition has changed. An evaluation of your needs shows that your medical needs can be met with the 8 hours of the personal care services. # The remainder of your needs can be met with other means. Therefore, the request for 40 personal care service hours weekly does not meet guidelines. We cannot approve your full request.

(Exhibit I, p 60; Testimony.)

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6. On October 25, 2024, Respondent conducted another Personal Care Assessment with Petitioner and the Ombudsman. (Exhibit J; Testimony.)
 7. On October 31, 2024, Respondent sent Petitioner a Notice indicating that her PCS was increased to 138 hours per month. (Exhibit K; Testimony.) The parties also indicated that Petitioner is authorized to receive 16 hours of Extracorporeal Life Support (ECLS) per month. (Testimony.)
 8. On January 13, 2025, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner's request for hearing. (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.

In 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans.

The Respondent is one of those MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

The Michigan Department of Health and Human Services (MDHHS) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. The MHP contract, referred to in this chapter as the Contract, specifies he beneficiaries to be served, scope of the benefits, and contract provisions with which the MHP must comply. Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)

MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies. (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those

specified. MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

*Medicaid Provider Manual
Medicaid Health Plan Chapter
July 1, 2024, p 1
Emphasis added*

Pursuant to the above policy and its contract with the Department, the MHP has developed policies that are subject to the limitations and restrictions described in the MHP’s Medicaid agreement, the MPM, Medicaid bulletins, and other directives.

With regard to PC Services, MHP policy provides:

Reasonable Time and Task

The ICO must ensure that adequate minutes of services are provided to meet the beneficiary’s needs. The Reasonable Time Schedule (below) are provided as a **guide**. The ICO may authorize more minutes per ADL as needed to meet the enrollee’s needs based on observation of the enrollee’s abilities during the in-person assessment.

For example, bathing ranking and the recommended times are as follows:

Activity	Rank	Minutes per day
Bathing	3	16
Bathing	4	18
Bathing	5	22

The ICO may provide higher or lower hours than shown on the Reasonable Time Schedule (RTS). Possible reasons for using higher hours include, but are not limited to, incontinence, severely impaired speech, paralysis and obesity. Possible reasons for lower hours include, but are not limited to, shared living arrangements (specifically for IADLs except for administering medications) and responsible relatives able and available to assist.

The ICO must provide adequate hours of service to meet the enrollee’s needs even when that goes above the RTS. If the enrollee’s needs go above the Reasonable Time Schedule, the ICO must add justification/verification to the assessments and IICSP to document the reasons for the extra needs.

Time and task is only for ADL and IADL services for the enrollee.
Care for an enrollee's pet does not count towards time and task.

Activities of Daily Living

The Reasonable Time Schedule (RTS) table includes the following reasonable times for completing ADL tasks:

Activity	Rank	Minutes per day assuming 7 days a week
Bathing	3	16
	4	18
	5	22
Grooming	3	8
	4	10
	5	12
Dressing	3	14
	4	16
	5	18
Toileting	3	22
	4	26
	5	28
Transferring	3	6
	4	8
	5	10
Eating	3	44
	4	50
	5	56
Mobility	3	14
	4	16
	5	18

Instrumental Activities of Daily Living

These activities require a ranking of 3, 4 or 5, but the reasonable times allotted are the same for all ranks. There are monthly maximum hour limits on all instrumental activities of daily living (IADL) except medication. The limits are as follows:

- Five hours/month for shopping.
- Six hours/month for light housework.
- Seven hours/month for laundry.

- 25 hours/month for meal preparation.

If the enrollee does not require the maximum allowable hours for IADLs, authorize only the amount of time needed for each task. Assessed hours for IADLs (except medications) must be prorated by **one half** in shared living arrangements where other adults reside in the home, as personal care services are **only** for the benefit of the enrollee.

Note: This does not include situations where others live in adjoined apartments/flats or in a separate home on shared property and there is no shared, common living area.

In shared living arrangements, where it can be **clearly** documented that IADLs for the eligible enrollee are completed separately from others in the home, hours for IADLs do not need to be prorated.

Example: The enrollee has special dietary needs and meals are prepared separately; the enrollee is incontinent of bowel and/or bladder and laundry is completed separately; the enrollee's shopping is completed separately due to special dietary needs and food is purchased from specialty stores; etc.

Time and task is only for ADL and IADL services for the enrollee. Care for an enrollee's pet does not count towards time and task.

(Exhibit B, pp 4-18; Emphasis added)

Petitioner testified that she understood that most of her PC hours had been reinstated but indicated that she would like them to pay retroactive back to the original denial because her caregiver continued to work during this time. Petitioner indicated that Legal Aid entered into a settlement on her behalf with Respondent to pay her caregiver 51.5 hours for September and October, an agreement she does not think was fair.

Petitioner also noted that it was untrue that additional documentation was requested from Respondent but not supplied by Petitioner. Petitioner indicated that she had been receiving the same number of PC hours for years and did not understand how the authorization could change. Petitioner testified that with eating, she also suffers from numerous allergic reactions that cause swelling and sometimes close her throat. Regarding toileting, Petitioner indicated that she has been on a bowel program since 2023 and incontinence has become more of a problem. Petitioner testified that she cannot take baths on her own and has fallen and broken bones while bathing in the past. Petitioner indicated that she is dependent on others for dressing, shopping, and housecleaning.

Given the above policy and evidence, Petitioner has failed to prove by a preponderance of the evidence that the MHP erred in the final assessment of her PC services.

Here, the evidence shows that while Respondent did initially decrease Petitioner's PC hours, those hours have mostly been reinstated since Petitioner provided more information. Prior to the reduction, Petitioner was receiving approximately 160 PC hours per month, now

Petitioner is receiving approximately 154 hours per month (138 PC hours and 16 ECLS hours). The final assessment conducted by Respondent with Petitioner and the Ombudsman is very detailed and adequately captured Petitioner's needs at that time. If Petitioner's condition has worsened since then, she can always request an increase.

Finally, the undersigned has no authority to interfere with a settlement that Legal Aide made *on Petitioner's behalf*, with Respondent regarding retroactive payments for PC services. If Petitioner has an issue with that settlement, it would be with Legal Aide, not Respondent.

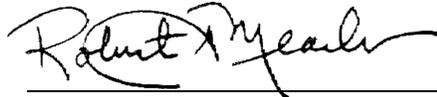
Therefore, the MHP's ultimate decision was proper and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly assessed Petitioner's Personal Care services.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is **AFFIRMED**.



ROBERT J. MEADE
ADMINISTRATIVE LAW JUDGE

RM/sj

PROOF OF SERVICE

I certify that I served a copy of the foregoing document upon all parties, to their last known addresses in the manner specified below, this 28th day of February 2025.

S. James

S. James

**Michigan Office of Administrative
Hearings and Rules**

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Petitioner

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