Michigan Office of Administrative Hearings and Rules
P.O. BOX 30763
LANSING, MI 48909

Date Mailed: May 5, 2025
Docket No.: 25-010192
Case No.: [redacted]
Petitioner: [redacted]

[redacted] MI [redacted]

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ADMINISTRATIVE LAW JUDGE: NULL

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and 42 CFR 438.400 to 438.424, upon the Petitioner's request for a hearing.

After due notice, a hearing was held on April 24, 2025. [redacted], Petitioner's Authorized Hearing Representative, appeared on behalf of the Petitioner. Petitioner, appeared as a witness on his own behalf. Mark Kopson, Attorney, appeared on behalf of Respondent, Aetna Better Health Michigan (Department.) Laquinda Bates, and Dr. Deborah Coates, appeared as witnesses for the Department.

Exhibits:

Petitioner	A – Request for Hearing
Department	1 – 12/18/22 HCBS Need Tool
	2 – 12/21/23 HCBS Needs Tool
	3 – 1/13/25 HCBS N
	4 – 2/17/25 Notice of Denial
	5 – 2/17/25 Appointment of Representative
	6 – 2/19/25 Level 1 Appeal
	7 – 3/11/25 Notice of Appeal Denial
	8 - Request for Hearing
	9 – 4/1/25 Notice of Hearing
	10 – Michigan Medicaid Manual, Section 5
	11 - Medicaid Provider Manual Medicaid Health Plan

ISSUE

Did the Department properly reduce Petitioner's personal care service hours?

FINDINGS OF FACT

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

1. In September of 2022, Petitioner transferred to Department's health plan. (Testimony.)

2. On December 28, 2022, the Department conducted a telephonic Personal Care Assessment using the HCBS Needs Tool. The assessment was conducted telephonically due to COVID-19 protocols. (Exhibit 1; Testimony.)

3. The December 28, 2022, assessment was later determined to be flawed due to a failure to prorate hours due to a shared living arrangement. (Exhibit 1; Testimony.)

4. On December 21, 2023, the Department conducted a new Personal Care Assessment using the Michigan HCBS Needs Tool. Due to a correction to the 2022 assessment, the new assessment assessed Petitioner for 19.95 hours of Personal Care Services per week. (Exhibit 2; Testimony.)

5. For unknown reasons, no Notice of Denial of Medical Coverage was issued, and Petitioner's hours were never reduced from a prior authorization of 35 hours to the new 20-hour allocation. (Testimony.)

6. On January 13, 2025, the Department reassessed Petitioner. Based on the assessment, it was determined Petitioner only required 16.68 hours of Personal Care Services per week. (Exhibit 3; Testimony.)

7. On February 17, 2025, the Department sent Petitioner a negative action notice indicating Petitioner's Personal Care Services would be reduced to 17 hours per week beginning February 24, 2025. (Exhibit 4; Testimony.)

8. On February 19, 2025, the Department received from Petitioner, a local level appeal. (Exhibit 6; Testimony.)

9. On March 11, 2025, following a review of the case by the Department's Medical Director, the Department sent Petitioner a Notice of Appeal Denial. (Exhibit 7; Testimony.)

10. On March 19, 2025, the Michigan Office of Administrative Hearings and Rules, received from Petitioner, a request for hearing. (Exhibit 8.)

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 statutes, 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 the 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 MDHHS 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.

1.1 SERVICES COVERED BY MEDICAID HEALTH PLANS (MHPs)

The following services must be covered by MHPs:

- Ambulance and other emergency medical transportation
- Blood lead services for individuals under age 21
- Certified nurse-midwife services
- Certified pediatric and family nurse practitioner services
- Childbirth and parenting classes
- Chiropractic services
- Diagnostic lab, x-ray and other imaging services
- Durable medical equipment and medical supplies
- Emergency services
- End Stage Renal Disease (ESRD) services
- Family planning services
- Health education
- Hearing and speech services
- Hearing aids
- Home health services[1]

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The Michigan Department of Health and Human Services, Minimum Operating Standards for MI Health Link Program and MI Health Link HCBS Waiver, indicates in relevant part with regard to Personal Care Services, the following:

[1] Medicaid Provider Manual, Medicaid Health Plans, January 1, 2025, p 2.

Overview of Personal Care Services

Personal care is a Medicaid State Plan service provided in the MI Health Link program to address physical assistance needs and enable individuals to remain in their homes by avoiding or delaying the need for long term care in an institutional setting. These services are furnished to enrollees who are not currently residing in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities or institution for mental illness and are provided in accordance with 42 CFR 440.167.

Personal care services are available to persons who require hands-on assistance in activities of daily living (ADLs): eating, toileting, bathing, grooming, dressing, mobility, and transferring, as well as direct assistance in instrumental activities of daily living (IADL), including personal laundry, light housekeeping, shopping, meal preparation and cleanup, and medication administration.

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Assessment and Reassessment Requirements

Initial Assessment

During the Level I Assessment, ICO Care Coordinators (or designee who meets the qualifications for an ICO Care Coordinator) must consider if the enrollee may need personal care services. If the ICO Care Coordinator believes the enrollee may be eligible for MI Health Link personal care services, the 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 Personal Care Assessment will be completed face to face in the enrollee's place of residence.

- Assessment may also include an interview with the individual who will be providing personal care services or any persons the enrollee wishes to include.

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> 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…
>
> 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.[2]

Pursuant to the above policy and its contract with the Department of Health and Human Services, the Department has developed prior authorization requirements and utilization management and review criteria.

Pursuant to the above policies, the Department reduced Petitioner's Personal Care Services based primarily on Petitioner's shared living arrangement which consequently fell in line with prior assessments.

Petitioner did not dispute the shared living arrangement which composed of nearly 99% of the reduction and further failed to address specifically how or why Petitioner required additional time. Instead, Petitioner focused on medical documentation that was not provided to the Department for review and consideration prior to, or contemporaneous to the decision that was made to reduce benefits.

While the undersigned can certainly empathize with the Petitioner's situation, the undersigned has no equitable authority and cannot ignore clear policy. As such, the Department's decision must be affirmed.

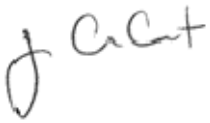
[2] Michigan Department of Health and Human Services Minimum Operating Standards for MI Health Link Program and MI Health Link HCBS Waiver, February 1, 2023, pp 15-16, 26.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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



COREY A. ARENDT
ADMINISTRATIVE LAW JUDGE

APPEAL RIGHTS: Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at courts.michigan.gov. The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at https://lrs.michbar.org or Michigan Legal Help at https://michiganlegalhelp.org. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to LARA-MOAHR-DCH@michigan.gov, **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to
  Michigan Office of Administrative Hearings and Rules
  Rehearing/Reconsideration Request
  P.O. Box 30639
  Lansing Michigan 48909-8139

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Via First Class & Electronic Mail:

Authorized Hearing Representative
[redacted]
MI [redacted]

Via Electronic Mail:

Community Health Representative
AETNA BETTER HEALTH OF MI
AETNA-GRIEVANCES AND APPEALS
28588 NORTHWESTERN HWY STE 380B
SOUTHFIELD, MI 48034
COEGAREGULATORYREQUESTS@AETNA.COM

Respondent Representative
MARK S. KOPSON
PLUNKETT COONEY
38505 WOODWARD AVE STE 100
BLOOMFIELD HILLS, MI 48304
MKOPSON@PLUNKETTCOONEY.COM

Department Contact
MDHHS-MANAGED CARE PLAN DIVISION
400 S PINE ST 7TH FL
LANSING, MI 48933
MDHHS-MCPD@MICHIGAN.GOV

Via First Class Mail:

Petitioner
[redacted]
MI [redacted]