



Date Mailed: June 11, 2025

Docket No.: 25-012328

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.

[REDACTED]
[REDACTED] MI [REDACTED]

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Case No.: [REDACTED]

Petitioner: [REDACTED]

DECISION AND ORDER

This matter is before the Michigan Office of Administrative Hearings and Rules (MOAHR) and the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon a request for hearing filed by Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on May 13, 2025. Petitioner appeared and testified on her own behalf. Sally Purdy, a Psychotherapist with Beacon Counseling Services, also testified as a witness for Petitioner. Antigoni Assefa, a Registered Nurse (RN)/Supports Coordinator, appeared and testified on behalf of the Respondent Tri-County Office on Aging (Respondent).

During the hearing, Petitioner's request for hearing was admitted into the record as Exhibit #1, pages 1-9. Respondent also submitted an evidence packet that was admitted into the record as Exhibit A, pages 1-26.

ISSUE

Did Respondent properly decide to terminate Petitioner's services through the MI Choice Waiver Program?

FINDINGS OF FACT

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

1. Since at least May of 2022, Petitioner has been enrolled as a participant in the MI Choice Waiver Program with Respondent. (Exhibit A, page 8).
2. Her services have included Community Living Supports (CLS) in her home. (Exhibit A, page 28).
3. Between May of 2022 and October of 2023, four separate care provider agencies worked with Petitioner in Petitioner's home pursuant to a contract with Respondent before ending care due to Petitioner's behavior. (Testimony of RN/Supports Coordinator).

25-012328

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4. In December of 2023, a new care provider agency, Ashley's Angels Home Service, contracted with Respondent to provide Petitioner's in-home services through the MI Choice Waiver Program.
 5. On October 21, 2024, a caregiver employed by Ashley's Angels Home Services reported that Petitioner had physically assaulted her and that the Ashley's Angels Home Service would not work with Petitioner any longer. (Exhibit A, pages 26-28).
 6. The caregiver also filed a police report. (Exhibit A, page 25).
 7. On October 23, 2024, Petitioner and a representative for Respondent signed an agreement regarding Petitioner's behavior. (Exhibit A, page 1).
 8. In that agreement, Petitioner agreed that, in order to receive services, she must take responsibility in making sure that her interactions with staff are safe and non-threatening, with Petitioner to be respectful, not verbally or physically abusive, and not using profane or offensive language. (Exhibit A, page 1).
 9. Petitioner also agreed that she had been made aware that, should any further incidents occur, her services with Respondent would be stopped and her case closed. (Exhibit A, page 1).
 10. A new provider agency, Haven Is Your Home Care, then contracted with Respondent to provide Petitioner's in-home services through the MI Choice Waiver Program. (Exhibit A, page 23).
 11. On March 12, 2025, a caregiver employed by Haven Is Your Home Care reported that, after the caregiver was ten minutes late for her shift due to construction delaying traffic, Petitioner was verbally abusive to her, as Petitioner had been on multiple other occasions, and the caregiver therefore quit. (Exhibit A, page 14).
 12. On March 13, 2025, Respondent sent Petitioner a Notice of Adverse Benefit Determination stating that she was being disenrolled from the MI Choice Waiver Program. (Exhibit A, pages 2-4).
 13. With respect to the reason for the termination, that notice stated in part:

Other Closure from the MI Choice Waiver Program is being implemented due to a violation of the Behavior Contract signed in 10/23/24 between [Petitioner] and Tri-County Office on Aging Supports Coordinators.

25-012328

As outlined in the Behavior Contract, the participant, [Petitioner], agreed to take responsibility for ensuring that all interactions with in-home workers remain safe, respectful, and non-threatening. This includes refraining from verbal or physical abuse and avoiding the use of profane or offensive language towards providing care. Due to incidents of disrespectful and verbal abuse directed towards a caregiver, [Petitioner] will be disenrolled from the MI Choice Waiver Program.

Exhibit A, page 2

14. On March 21, 2025, Petitioner filed an Internal Appeal with Respondent with respect to the decision to terminate her services. (Exhibit A, page 5).
15. On March 24, 2025, Respondent sent Petitioner a Notice of Internal Appeal Decision – Denial stating that Petitioner’s Internal Appeal had been denied. (Exhibit A, pages 5-7).
16. On April 7, 2025, MOAHR received the request for hearing filed in this matter with respect to the decision to terminate her services. (Exhibit #1, pages 1-9).

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. 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.

Petitioner is receiving services through the Department’s Home and Community Based Services for Elderly and Disabled. The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid to the Michigan Department of Health and Human Services. Regional agencies, in this case Respondent, 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 beneficiaries. Waivers allow exceptions to State plan requirements and permit a State to implement

25-012328

innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of beneficiaries 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)

A waiver under section 1915(c) of the Social Security Act allows a State to include as “medical assistance” under its plan, home and community-based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF (Skilled Nursing Facility), ICF (Intermediate Care Facility), or ICF/MR (Intermediate Care Facility/Mentally Retarded) and is reimbursable under the State Plan. See 42 CFR 430.25(c)(2).

Types of services that may be offered through the waiver program include:

Home or community-based services may include the following services, as they are defined by the agency and approved by CMS:

- (1) Case management services.
- (2) Homemaker services.
- (3) Home health aide services.
- (4) Personal care services.
- (5) Adult day health services.
- (6) Habilitation services.
- (7) Respite care services.
- (8) Day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness, subject to the conditions specified in paragraph (d) of this section.
- (9) Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization.

42 CFR 440.180(b)

Pursuant to 42 CFR 440.230(d), the Medicaid agency “may place appropriate limits on a service based on such criteria as medical necessity or on utilization control procedures.”

25-012328



25-012328

The Medicaid Provider Manual (MPM) also outlines the governing policy for the MI Choice Waiver program and, in part, the applicable version of the MPM states:

SECTION 1 – GENERAL INFORMATION

MI Choice is a waiver program operated by the Michigan Department of Health and Human Services (MDHHS) to deliver home and community-based services to elderly persons and persons with physical disabilities who meet the Michigan nursing facility level of care criteria. The waiver is approved by the Centers for Medicare & Medicaid Services (CMS) under sections 1915(b) and 1915(c) of the Social Security Act. MDHHS carries out its waiver obligations through a network of enrolled providers that operate as Prepaid Ambulatory Health Plans (PAHPs). These entities are commonly referred to as waiver agencies. MDHHS and its waiver agencies must abide by the terms and conditions set forth in the approved waivers.

MI Choice services are available to qualified participants throughout the state, and all provisions of the program are available to each qualified participant unless otherwise noted in this policy and approved by CMS. MDHHS will not enact any provision to the MI Choice program that prohibits or inhibits a participant's access to a person-centered service plan, discourages participant direction of services, interferes with a participant's right to have grievances and complaints heard, or endangers the health and welfare of a participant. The program must monitor and actively seek to improve the quality of services delivered to participants. Safeguards are utilized to ensure the integrity of payments for waiver services and the adequacy of systems to maintain compliance with federal requirements.

Waiver agencies are required to provide oral and written assistance to all Limited English Proficient applicants and participants. Agencies must arrange for translated materials to be accessible or make such information available orally through bilingual staff or the use of interpreters.

* * *

3.10 CASE CLOSURE

Closed cases are those that SCs determine no longer require intervention. SCs must document this status change in the case records. SCs designate closed case status for the following reasons:

- Death. The SCs shall close the waiver case upon the death of the participant. The last date of waiver enrollment cannot exceed the date of death.
- Moved, Transferred
- Moved, Not Transferred
- Not Eligible
- Nursing Facility Placement
- Refused Service
- ICF/IID Placement
- Transferred to Another Waiver Agency
- Transferred to Another Agency
- Moved to Case Management with other programs
- Hearing
- For Cause
- Administrative
- Other

SCs must document a reason for closure of a case in the participant case record.

The waiver agency must notify the participant or proxy in writing of the decision to close the waiver case 10 days before closure, unless an exception to the provision of advanced notice for an adverse benefit determination applies.

*MPM, January 1, 2025 version
MI Choice Waiver Chapter, pages 1, 17*

Here, as discussed above, Respondent decided to terminate Petitioner's services and close her case with Respondent for cause pursuant to the above policies and due to Petitioner's behavior.

In support of that decision, Petitioner's RN/Supports Coordinator testified regarding the history of the case, including a total of six provider agencies refusing to work with Petitioner due to Petitioner's behavior; the agreement signed by the parties regarding Petitioner's behavior; and Petitioner's failure to abide by that agreement.

In response, Petitioner testified that the aide is lying about any incident in March of 2025, with Petitioner never yelling at or being verbally abusive to the caregiver. She also testified that she needs services to survive.

Petitioner's Psychotherapist testified that she has been working with Petitioner since December of 2023 and that, while Petitioner can be very specific in her language and the Psychotherapist could see how people might take offense, some of Petitioner's caregivers can be immature and overreact to appropriate language. The Psychotherapist also testified that she is working with Petitioner on Petitioner being more tolerant, using a better tone of voice, and calling an agency directly if anything happens.

Petitioner bears the burden of proving by a preponderance of the evidence that Respondent erred. Moreover, the undersigned ALJ is limited to reviewing Respondent's decision in light of the information available at the time the decision was made.

Given the available information and applicable policies in this case, Petitioner has failed to meet that burden of proof and Respondent's decision must therefore be affirmed.

Petitioner's past inappropriate behaviors and failures to meet her responsibilities as a participant in the waiver program are undisputed and, in order to continue to receive services, she signed an agreement in October of 2024 in which she agreed to ensure that her interactions with staff were safe and non-threatening, with Petitioner to be

25-012328

respectful, not verbally or physically abusive, and not using profane or offensive language.

The record also reflects that Petitioner subsequently violated that agreement, with another caregiver reporting that Petitioner was being verbally abusive and another care provider agency refusing to work with Petitioner. Moreover, while Petitioner testified that the most recent caregiver who quit is lying, the undersigned ALJ does not find Petitioner to be credible on that issue given her history, which includes five provider agencies previously refusing to work with Petitioner due to Petitioner's behavior, and lack of other support.

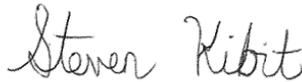
The undersigned ALJ further finds that Petitioner's behavior constitutes good cause for closing her case and terminating her services, and that Respondent's decision in this case should therefore be affirmed.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, decides that Respondent properly decided to terminate Petitioner's services and close her case with Respondent.

IT IS THEREFORE ORDERED that:

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



STEVEN KIBIT
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://rs.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

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.



Via First Class & Electronic Mail:

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[REDACTED]

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