



Date Mailed: August 12, 2025

Docket No.: 25-013475

Case No.: [REDACTED]

Petitioner: [REDACTED]

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

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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 upon a request for hearing filed on behalf of Petitioner [REDACTED] (Petitioner).

After due notice, a telephone hearing was held on July 24, 2025. Attorney Dylan Wallace represented Petitioner. Nena Sork, Executive Director, represented Respondent Northeast Michigan Community Mental Health (NEMCHA or Respondent).

During the hearing, one witness testified:

Laura Marcotte, Psychologist

The following exhibits were also entered into the record without objection:

Petitioner's Exhibits

Exhibit A: Psychological Evaluation dated 5/15/24

Exhibit B: Guardianship Papers

Exhibit C: NEMCHA Non-Billable Contact Note dated 9/18/24

Exhibit D: Internal Appeal dated 11/20/24

Exhibit E: Psychological Evaluation dated 5/14/25

Respondent's Exhibits

Exhibit #1: Psychiatric Evaluation dated 1/8/18

Exhibit #2: Multidisciplinary Evaluation Team Report dated 4/18

Exhibit #3: Psychological Evaluation dated 5/15/24

Exhibit #4: Psychological Evaluation dated 5/14/25

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- Exhibit #5: Notice of Adverse Benefit Determination dated 9/23/24
- Exhibit #6: NEMCMHA Eligibility Criteria and Non-Discrimination Policy
- Exhibit #7: NEMCMHA Grievance and Appeals Process Policy
- Exhibit #8: Guardianship Papers

ISSUE

Did Respondent properly deny Petitioner's request for intellectual development disability targeted case management 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 was adopted by his parents when he was [REDACTED] months old, after living in a disrupted environment. (Exhibit #2, page 4).
2. In 2010, when he was [REDACTED] years-old, Petitioner began psychiatric treatment initiated by his primary care physician. (Exhibit #1, page 2).
3. During 2015 and 2016, he was hospitalized on three different occasions, with a history of at least two suicide attempts. (Exhibit #1, page 2).
4. In school, he was approved for special education services due to an "Emotional Impairment". (Exhibit #2, page 1).
5. Specific diagnoses noted by the school were attention deficit hyperactivity disorder, obsessive compulsive disorder, post-traumatic stress disorder, separation anxiety, reactive attachment disorder, and oppositional defiant disorder. (Exhibit #2, page 4).
6. On January 8, 2018, when he was [REDACTED] years-old, Petitioner underwent a psychiatric evaluation with a Dr. Neera Ghaziuddin, M.D., from Child and Adolescent Psychiatry, Michigan Medicine, University of Michigan. (Exhibit #1, pages 1-5).
7. The evaluation was requested because Petitioner's parents had concerns regarding Petitioner's behaviors including impulsivity, perseveration, and being argumentative; in addition to a lack of energy, excessive sleep, and a variety of physical symptoms. (Exhibit #1, page 1).

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8. Dr. Ghaziuddin subsequently diagnosed Petitioner with:

DIAGNOSES

Axis I Bipolar disorder NOS, autism spectrum disorder
(based on clinical evaluation)

Axis II Rule out learning disability

Axis III Multiple somatic complaints which may need
additional workup

Axis IV No acute stressors identified although past
history of neglect

Axis V GAF 40

Exhibit #1, page 5

9. As treatment, Dr. Ghaziuddin recommended that the diagnosis of autism spectrum disorder be clarified, with neuropsychological testing and a speech evaluation ordered. (Exhibit #1, page 5).
10. Dr. Ghaziuddin also recommended that Petitioner continue his current medications, with a possible reduction; Petitioner receive social skill training and supportive psychotherapy; Petitioner's signs of metabolic syndrome be monitored; and that Petitioner's parents continue to work with Petitioner's primary care physician. (Exhibit #1, page 6).
11. In April of 2018, the Multidisciplinary Evaluation Team for Alpena Montmorency Alcona Educational Service District reassessed Petitioner at Petitioner's request following that diagnosis of autism spectrum disorder. (Exhibit #2, page 1-16).
12. Petitioner had previously found Petitioner eligible for special educational services due to an emotional impairment. (Exhibit #2, page 1).
13. Standardized assessments conducted during the evaluation were the Autism Diagnostic Observation Schedule, Second Edition (ADOS-2), the Wechsler Individual Achievement Test, Third Edition (WIAT-III); the Social Language Development Test Adolescent (SLDTA), and the Comprehensive Assessment of Spoken Language Second Edition (CASL2). (Exhibit #2, page 2).
14. In the ADOS-2, Petitioner did not score in the autism or autism spectrum range. (Exhibit #2, page 10).
15. The Multidisciplinary Evaluation Team also concluded that, considering the ADOS-2 and all of the other assessments used, in addition to their observations and input from Petitioner's teacher and parents, Petitioner did not meet criteria for special education services under the category of ASD. (Exhibit #2, pages 9-15).

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16. It further noted in the report issued after the assessment that:

After a comprehensive evaluation of [Petitioner's] abilities of the team, that [Petitioner] continue to receive special education services, but that his area of eligibility be changed from Emotional Impairment to Other Health Impairment. This is based on current diagnoses provided by parents and physician, as well as [Petitioner's] current educational needs.

Additionally, [Petitioner] was evaluated to determine if he meets the MARSE eligibility criteria for ASD. After this comprehensive evaluation, it is the professional opinion of this team that [Petitioner] does not presents [sic] with (1) Qualitative impairment in reciprocal social interactions, that he does not have a (2) Qualitative impairment in communication and that there is no evidence of (3) Restricted, repetitive, and stereotyped behaviors. Thus this team recommends that he does not meet the Michigan Administrative Rules for Special Education (MARSE) determination of eligibility for ASD. However, the team recognizes that [Petitioner] has a recent diagnosis of ASD and recommends that this be acknowledged and considered under OHI.

Exhibit #2, pages 1-2

17. On May 15, 2024, when he was [REDACTED] years-old, Petitioner underwent a psychological evaluation with Dr. Jacey L. Cook, Ph.D., a Limited Licensed Psychologist with Old Town Psychological Services. (Exhibit A, pages 1-8; Exhibit #3, pages 1-8)
18. The purpose of the evaluation was "to determine if [Petitioner] meets criteria as an individual with a developmental disability and may benefit from having a guardianship." (Exhibit A, page 1; Exhibit #3, page 1).
19. During that evaluation, Dr. Cook reviewed Petitioner's case record; conducted a clinical interview; and administered the Wechsler Adult Intelligence Scale – Fourth Edition (WAIS-IV), the WRAT 5, and the Vineland Adaptive Behavior Scales-Third Edition Domain-Level Interview. (Exhibit A, page 1; Exhibit #3, page 1).
20. She noted that Petitioner is "currently diagnosed with autism, adhd, bipolar disorder, NOSand [sic] ocd." (Exhibit A, page 2; Exhibit #3, page 2).

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21. She also noted that Petitioner “received special education in high school likely around the time he was diagnosed with Autism.” (Exhibit A, page 2; Exhibit #3, page 2).

22. In a summary of her findings, Dr. Cook noted in part:

Results of the WAIS-IV suggest that [Petitioner] is functioning in the Low Average to Average range of intellectual functioning. [Petitioner] performed in the Average range in Academic Achievement except for Math Computation which fell in the Extremely low range. His scores on these two measures suggest that he is functionally academically at or slightly above his intelligence.

Adaptive Behavior scores were in the Moderately Low to Low range. This suggests that [Petitioner] struggles with his adaptive functioning.

Exhibit A, page 6
Exhibit #3, page 6

23. Her diagnostic impression was “Average Intellectual Functioning, and Low adaptive functions.” (Exhibit A, page 6; Exhibit #3, page 6).

24. In her conclusions, Dr. Cook found:

Autism Spectrum Disorders and Intellectual Disabilities, both Neurodevelopmental Disorders, are probably the most frequently occurring mental disorders that result in a diagnosis of a developmental disability. [Petitioner] was diagnosed with Autism at age 14.

* * *

[Petitioner] does meet criteria for an intellectual disability as his Full Scale IQ is 89, which is not even quite one full standard deviation below the mean. His Adaptive Behavior Composite Score is 68 which is two standard deviations below the mean.

Regarding Michigan Mental Health Code criteria, it is my conclusion that [Petitioner] does meet criteria as a young person with a developmental disability.

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He has a history of two neurodevelopmental disorders (Autism and ADHD) in conjunction with functional limitations in Self-Care, Self-Direction, Mobility and Economic Self-Sufficiency.

This disability interferes significantly with [Petitioner's] ability to function normally in society and he will benefit from a partial guardian to assist him in his affairs.

Exhibit A, page 7
Exhibit #3, page 7

25. Following a hearing on August 26, 2024, Judge Alam M. Curtis of the Alpena County Probate Court issued an Order Appointing Guardian for Individual with a Developmental Disability with respect to Petitioner. (Exhibit B, pages 1-2; Exhibit #8, pages 1-2).

26. In part, that order stated:

Findings of fact are more fully stated on the record regarding the individual's nature and extent of general intellectual functioning, and extent of impairment of adaptive behavior, capacity to manage his/her estate and financial affairs, and capacity to care for self by making and communicating responsible decisions concerning his or her person.

Exhibit B, page 1
Exhibit #8, page 1

27. Petitioner's parents were appointed as Petitioner's partial co-legal guardians. (Exhibit B, pages 1-8; Exhibit #8, pages 1-8).

28. As partial co-legal guardians, Petitioner's parents were granted the following powers:

Guardian shall consent to medical, dental and optical treatments excepting extraordinary procedures. Guardian shall make all mental health services decisions on behalf of the Ward. Guardian shall arrange for and consent to the living arrangements for the Ward. Guardian shall make program, placement and educational decisions on behalf of the Ward. Guardian shall make all legal and contractual decisions on behalf of the Ward.

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Guardian shall consult with Ward before making major decisions. Ward retains all legal and civil rights except those which have been specifically granted above to the partial guardian.

Guardian shall no enact or authorize a DNR order without Court approval per Michigan law.

Exhibit B, page 2
Exhibit #8, page 2

29. In September of 2024, Petitioner requested intellectual developmental disability targeted case management services through Respondent. (Exhibit C, page 1).
30. Petitioner was already approved for services, including targeted case management services, through Respondent as a person with a mental illness. (Testimony of Psychologist).
31. For Respondent, a Psychologist reviewed Petitioner's records. (Exhibit C, page 1; Testimony of Psychologist).
32. She did not meet with Petitioner or evaluate him herself. (Exhibit C, page 1; Testimony of Psychologist).
33. The Psychologist then concluded that Petitioner did not meet criteria for services as a person with an intellectual or developmental disability. (Exhibit C, page 1; Testimony of Psychologist).
34. In her note, the Psychologist wrote:

[Petitioner is not meeting clinical criteria for an intellectual disability. He does appear to have a weakness in mathematics, which could potentially suggest a specific learning disability in mathematics. With the exception of this area, [Petitioner] has historically scored within Average to Low Average score ranges on intelligence tests. [Petitioner] does appear to lack execution of some age-appropriate adaptive functioning skills, as rated by caregivers. There is no current documentation available confirming any previous testing to indicate an autism spectrum disorder diagnosis. [Petitioner] may benefit from the assistance of a payee for managing finances if there is continued concern in this area, due to his weakness in Math Computation.

He would benefit from continued involvement with natural supports and the community to assist with strengthening adaptive functioning skills. Based on recent psychological testing and review, [Petitioner] would not be eligible for I/DD services as he is not meeting clinical criteria for an intellectual developmental disability at this time.

Exhibit C, page 1

35. On September 23, 2024, Respondent sent Petitioner's guardian a Notice of Adverse Benefit Determination stating that Petitioner's request for intellectual developmental disability targeted case management services had been denied. (Exhibit #5, pages 1-7).

36. The Notice of Adverse Benefit Determination also stated in part:

You do not meet the clinical eligibility criteria for services.

After further review from a psychologist at [Respondent] who evaluated the psychological evaluation that was obtained from Old Town Psychological, [Petitioner] does not meet eligibility criteria for an intellectual or developmental disability and therefore does not qualify for IDD Case Management

Exhibit #5, page 1

37. On November 20, 2024, Petitioner's representative filed an Internal Appeal with Respondent with respect to that denial. (Exhibit D, pages 1-6).

38. On December 18, 2024, Petitioner's Internal Appeal was denied.

39. On April 16, 2025, MOAHR received the request for hearing filed on Petitioner's behalf in this matter with respect to the decision to deny the request for intellectual development disability targeted case management services.

40. While this matter was pending, Petitioner underwent a psychological evaluation on May 14, 2025, with Dr. Cook at Old Town Psychological Services, for the purpose of assessing his symptoms of ASD. (Exhibit E, pages 1-11; Exhibit #4, pages 1-11).

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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 Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program:

Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children or qualified pregnant women or children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services.

42 CFR 430.0

The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program.

42 CFR 430.10

Section 1915(b) of the Social Security Act provides:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this subchapter, may waive such requirements of section 1396a of this title (other than subsection (s) of this section) (other than sections 1396a(a)(15), 1396a(bb), and 1396a(a)(10)(A) of this title insofar as it requires provision of the care and services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State...

42 USC 1396n(b)

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The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915 (c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services (DHHS) operates a section 1915(b) Medicaid Managed Specialty Services and Support program waiver in conjunction with a section 1915(c).

Here, as discussed above, Petitioner has been receiving targeted case management services through Respondent as a personal with a mental illness; he requested additional targeted case management services as a person with a developmental disability; and Respondent denied that request on the basis that Petitioner did not meet eligibility criteria for a developmental disability.

With respect to developmental disabilities, the State of Michigan's Mental Health Code provides in part:

(27) "Developmental disability" means either of the following:

- (a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:
 - (i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.
 - (ii) Is manifested before the individual is 22 years old.
 - (iii) Is likely to continue indefinitely.
 - (iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (A) Self-care.
 - (B) Receptive and expressive language.
 - (C) Learning.
 - (D) Mobility.
 - (E) Self-direction.
 - (F) Capacity for independent living.
 - (G) Economic self-sufficiency.
 - (v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

MCL 330.1100a(27)
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Here, Respondent denied Petitioner's request for intellectual development disability targeted case management services on the basis that Petitioner is not eligible for such services through Respondent as a person with a developmental disability.

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

Given the record and applicable criteria in this case, the undersigned ALJ finds that Petitioner has not met that burden of proof and Respondent's decision must therefore be affirmed.

Whether or not Petitioner has a developmental disability appears to turn on whether Petitioner has been diagnosed with autism spectrum disorder (ASD); and Respondent properly found that no such diagnosis has been sufficiently or persuasively made.

In 2018, Dr. Ghaziuddin did diagnosed Petitioner with ASD following a clinical evaluation, but she also specifically recommended that the diagnosis be clarified, with neuropsychological testing and a speech evaluation ordered, and the record does not reflect any further clarification, evaluation or standardized testing for ASD at that time.

Moreover, in that same year, the Multidisciplinary Evaluation Team for Alpena Montmorency Alcona Educational Service District reassessed Petitioner and expressly found that Petitioner did not score in the autism or autism spectrum range based on the standardized assessments used, including the ADOS-2.

And while Dr. Cook found in 2024 that Petitioner had a developmental disability due to ASD, she did not appear to diagnose Petitioner herself or conduct any standardized tests for ASD. Instead, Dr. Cook appeared to just rely on the provisional diagnosis made by Dr. Ghaziuddin in 2018 that was never followed up on. Dr. Cook also noted that Petitioner was receiving special education services due to ASD when that was simply not the case, with Petitioner already receiving special education services prior to the provisional diagnosis and the school district expressly denying Petitioner special education services based on ASD.

There is a court order appointing a guardian for Petitioner as an individual with a developmental disability with respect to Petitioner. However, while that order is probative, it is not dispositive on its own. Moreover, the order itself lacks details as to the court's findings; nothing else in the record supplements it; and Respondent properly found the court order on its own to be insufficient.

Petitioner also provided a second report from Dr. Cook, and in that report she did administer specific tests for ASD, like the Autism Diagnostic Interview – Revised (ADIR). However, that second assessment came after the decision in this case and as discussed above, the undersigned ALJ is limited to reviewing the Respondent’s decision in light of the information it had at the time it made that decision.

To the extent Petitioner’s guardians have updated or additional information to provide regarding Petitioner’s needs for intellectual development disability targeted case management services, they can always request such services again in the future with that new information. With respect to the decision in this case however, Respondent’s decision must be affirmed given the record and applicable criteria.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly denied Petitioner’s request for intellectual development disability targeted case management services.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

**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.

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