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

Date Mailed: June 2, 2025
Docket No.: 25-015281
Case No.: [redacted]
Petitioner: [redacted]

[redacted]

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

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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.

Date Mailed: June 2, 2025
Docket No.: 25-015281
Case No.: 11968958
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Error! Unknown document property name.

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on May 22, 2025. [redacted] Petitioner's Guardian, appeared on behalf of Petitioner. Stacy Coleman, Fair Hearing Officer, appeared on behalf of Respondent, Macomb County Community Health (Department).

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did Department properly deny Petitioner's request for Community Living Supports (CLS)?

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 receiving Medicaid covered specialty supports and services from Department. (Exhibit A; Testimony.)

2. Petitioner is diagnosed with cerebral palsy and intellectual disability. (Exhibit A; Testimony.)

3. Since November 25, 2024, Petitioner has been receiving services from Department. (Exhibit A; Testimony.)

4. On December 2, 2024, Petitioner and Guardian participated in a Person Centered Planning Meeting. (Exhibit A.)

5. The December 2, 2024, meeting resulted in the following goals and objectives:

    1. To enjoy life without Petitioner's mother

        a. Over the next year, Petitioner will increase her social connectedness/independence through participation in 4 social/recreational activities in her community each month AEB mom and staff reports in monthly ISB meetings.

    2. Respite

        a. Petitioner agrees to receive 40 hours of respite support hours each month over the next year to allow her mother time to care for herself AEB Petitioner remaining safe, happy and healthy at home as reported during monthly ISB meetings.

    3. For Petitioner to be happy and healthy

        a. Over the next year, Petitioner will be provided with the physical support she needs to continue living in her own home 7 days per week via a combination of natural supports, Adult Home Help and Community Living Supports AEB family report to ISB during monthly meetings

        b. Over the next year, Petitioner will engage in range of motion exercises/stretching 7 days per week via a combination of natural supports and Community Living Supports AEB family/staff report to ISB during monthly meetings.[1]

6. On December 16, 2024, the Department sent Petitioner a Notice of Adverse Benefit Determination. The noticed provided the following:

[1] Exhibit A, pp 38, 40, 42.

> Your clinician requested 103 hours per month of Community Living Supports (CLS) for the date range of 12/16/2024-3/16/2025. Based on a review of the documentation in your medical record, criteria in the Medicaid Provider Manual and MCO Policy and Procedures, 12 hours per month will be authorized. Community Living Supports services does not include direct assistance with personal care activities. CLS may be used for direct assistance with personal care activities on an ongoing basis for Habilitation Supports Waiver recipients only.[2]

7. On January 29, 2025, the Department received a request for an internal appeal from the Petitioner. (Exhibit A.)

8. On February 19, 2025, the Department sent Petitioner a Notice of Appeal Denial. The notice indicated Petitioner's request for 103 hours of CLS per month was denied. The notice provided the following:

> You are asking for 103 hours per month of Community Living Support., We looked at the records. This service helps with your symptoms or keeps your condition from getting worse. It also helps you join in the community. The records don't show that you need this much help. Medical necessity is not met for these services as requested and denial is upheld.[3]

9. On April 28, 2025, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Hearing File.)

10. At all times relevant to this proceeding, Petitioner has attended school, Monday through Thursday for 8 hours each day. (Testimony.)

11. At all times relevant to this proceeding, Petitioner has been approved for and receiving the maximum allotment of Home Help Services provided for in policy. (Testimony.)

12. As of May 22, 2025, Petitioner was working with the Department of Health and Human Services on being approved for expanded home help services. (Testimony.)

13. Following receipt of the request for hearing, Petitioner's Individualized Plan of Services was amended to include an additional goal that led to an increase in the allotment of CLS hours being approved. (Testimony.)

[2] Exhibit A, p 9.
[3] Exhibit A, p 3.

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.[4]
>
> 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.[5]

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

[4] 42 CFR 430.0.
[5] 42 CFR 430.10.

> services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State…[6]

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 is seeking CLS services and a fiscal intermediary. With respect to the requested services, the applicable version of the Medicaid Provider Manual (MPM) provides in part:

> **17.4.A. COMMUNITY LIVING SUPPORTS**
>
> NOTE: This service is a State Plan EPSDT service when delivered to children birth-21 years.
>
> Community Living Supports (CLS) are used to increase or maintain personal self-sufficiency, facilitating a beneficiary/s achievement of their goals of community inclusion and participation, independence or productivity. The supports may be provided in the participant's residence or in community settings (including, but not limited to, libraries, city pools, camps, etc.).
>
> Coverage includes:
>
> - Assisting (that exceeds state plan for adults), prompting, reminding, cueing, observing, guiding and/or training in the following activities:
>
> - meal preparation
>
> - laundry
>
> - routine, seasonal, and heavy household care and maintenance
>
> - activities of daily living (e.g., bathing, eating, dressing, personal hygiene)

[6] 42 USC 1396n(b).

- shopping for food and other necessities of daily living

CLS services may not supplant services otherwise available to the beneficiary through a local educational agency under the Individuals with Disabilities Education Act (IDEA) or the Rehabilitation Act of 1973 or state plan services, e.g., Personal Care (assistance with ADLs in a certified specialized residential setting) and Home Help or Expanded Home Help (assistance in the individual's own, unlicensed home with meal preparation, laundry, routine household care and maintenance, activities of daily living and shopping). If such assistance appears to be needed, the beneficiary must request Home Help and, if necessary, Expanded Home Help from the Department of Human Services (MDHHS). CLS may be used for those activities while the beneficiary awaits determination by MDHHS of the amount, scope and duration of Home Help or Expanded Home Help. If the beneficiary requests it, the PIHP case manager or supports coordinator must assist him/her in requesting Home Help or in filling out and sending a request for Fair Hearing when the beneficiary believes that the MDHHS authorization of amount, scope and duration of Home Help does not appear to reflect the beneficiary's needs based on the findings of the MDHHS assessment.

- CLS staff providing assistance, support and/or training with activities such as:

  - money management

  - non-medical care (not requiring nurse or physician intervention)

  - socialization and relationship building

  - transportation from the beneficiary's residence to community activities, among community activities, and from the community activities back to the

beneficiary's residence (transportation to and from medical appointments is excluded)

- participation in regular community activities and recreation opportunities (e.g., attending classes, movies, concerts and events in a park; volunteering; voting)

- attendance at medical appointments

- acquiring or procuring goods, other than those listed under shopping, and non-medical services

- Reminding, observing and/or monitoring of medication administration

- Staff assistance with preserving the health and safety of the individual in order that he/she may reside or be supported in the most integrated, independent community setting.

CLS may be provided in a licensed specialized residential setting as a complement to, and in conjunction with, state plan coverage Personal Care in Specialized Residential Settings. Transportation to medical appointments is covered by Medicaid through MDHHS or the Medicaid Health Plan. Payment for CLS services may not be made, directly or indirectly, to responsible relatives (i.e., spouses, or parents of minor children), or guardian of the beneficiary receiving community living supports.

> CLS assistance with meal preparation, laundry, routine household care and maintenance, activities of daily living and/or shopping may be used to complement Home Help or Expanded Home Help services when the individual's needs for this assistance have been officially determined to exceed the DHS's allowable parameters. CLS may also be used for those activities while the beneficiary awaits the decision from a Fair Hearing of the appeal of a MDHHS decision. Reminding, observing, guiding, and/or training of these activities are CLS coverages that do not supplant Home Help or Expanded Home Help.[7]

While CLS is a covered service, Medicaid beneficiaries are still only entitled to medically necessary Medicaid covered services.[8] Regarding medical necessity, the MPM also provides:

> **2.5 MEDICAL NECESSITY CRITERIA**
>
> The following medical necessity criteria apply to Medicaid mental health, developmental disabilities, and substance abuse supports and services.
>
> **2.5.A. MEDICAL NECESSITY CRITERIA**
>
> Mental health, developmental disabilities, and substance abuse services are supports, services, and treatment:
>
> - Necessary for screening and assessing the presence of a mental illness, developmental disability or substance use disorder; and/or
> - Required to identify and evaluate a mental illness, developmental disability or substance use disorder; and/or

[7] Medicaid Provider Manual, Behavioral Health and Intellectual and Developmental Disability Supports and Services, January 1, 2024, pp 150-151.
[8] *See* 42 CFR 440.230.

- Intended to treat, ameliorate, diminish or stabilize the symptoms of mental illness, developmental disability or substance use disorder; and/or

- Expected to arrest or delay the progression of a mental illness, developmental disability, or substance use disorder; and/or

- Designed to assist the beneficiary to attain or maintain a sufficient level of functioning in order to achieve his goals of community inclusion and participation, independence, recovery, or productivity.

2.5.B. DETERMINATION CRITERIA

The determination of a medically necessary support, service or treatment must be:

- Based on information provided by the beneficiary, beneficiary's family, and/or other individuals (e.g., friends, personal assistants/aides) who know the beneficiary;

- Based on clinical information from the beneficiary's primary care physician or health care professionals with relevant qualifications who have evaluated the beneficiary;

- For beneficiaries with mental illness or developmental disabilities, based on person-centered planning, and for beneficiaries with substance use disorders, individualized treatment planning;

- Made by appropriately trained mental health, developmental disabilities, or substance abuse professionals with sufficient clinical experience;

- Made within federal and state standards for timeliness;

- Sufficient in amount, scope and duration of the service(s) to reasonably achieve its/their purpose; and

- Documented in the individual plan of service.

2.5.C. SUPPORTS, SERVICES AND TREATMENT AUTHORIZED BY THE PIHP

Supports, services, and treatment authorized by the PIHP must be:

- Delivered in accordance with federal and state standards for timeliness in a location that is accessible to the beneficiary;

- Responsive to particular needs of multi-cultural populations and furnished in a culturally relevant manner;

- Responsive to the particular needs of beneficiaries with sensory or mobility impairments and provided with the necessary accommodations;

- Provided in the least restrictive, most integrated setting. Inpatient, licensed residential or other segregated settings shall be used only when less restrictive levels of treatment, service or support have been, for that beneficiary, unsuccessful or cannot be safely provided; and

- Delivered consistent with, where they exist, available research findings, health care practice guidelines, best practices and standards of practice issued by professionally recognized organizations or government agencies.

2.5.D. PIHP DECISIONS

Using criteria for medical necessity, a PIHP may:

- Deny services:

  - that are deemed ineffective for a given condition based upon professionally and scientifically recognized and accepted standards of care;

- that are experimental or investigational in nature; or

- for which there exists another appropriate, efficacious, less-restrictive and cost-effective service, setting or support that otherwise satisfies the standards for medically-necessary services; and/or

- Employ various methods to determine amount, scope and duration of services, including prior authorization for certain services, concurrent utilization reviews, centralized assessment and referral, gate-keeping arrangements, protocols, and guidelines.

A PIHP may not deny services based **solely** on preset limits of the cost, amount, scope, and duration of services. Instead, determination of the need for services shall be conducted on an individualized basis.[9]

Here, Petitioner requested 103 hours a month of CLS services. However, the documentation provided did not reflect the medical necessity requirements for the allocation the Petitioner was seeking.

In appealing the decision, Petitioner bears the burden of proving by a preponderance of the evidence that the Department erred. Moreover, the undersigned Administrative Law Judge is limited to reviewing the Department's decision considering the information it had at the time the decision was made.

Given the record and applicable policies in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet her burden of proof; and that the Department's decision must, therefore, be affirmed.

The records provided do not show the requested services as being medically necessary. Specifically, the goals in the IPOS do not demonstrate a need for CLS hours in addition to the 12 already being approved. And while CLS can compliment HHS, there was no evidence of where the HHS fell short and there was a need for CLS to fill in.

Consequently, with respect to the decision at issue in this case, the Department's decision must be affirmed given the available information and applicable policies.

[9] *Id*, at pp14-15.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Petitioner's request for additional CLS.

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 MOAHR-BSD-Support@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 Electronic Mail:

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