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

Date Mailed: November 5, 2025
Docket No.: 25-027274
Case No.: [redacted]
Petitioner: [redacted]

[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।

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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.

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Case No.: [redacted]
Petitioner: [redacted]

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 hearing was held on October 28, 2025. [redacted] Petitioner's parents and guardians, appeared and testified on Petitioner's behalf.

Stacy Coleman, Fair Hearing Officer, appeared and testified on behalf of Respondent, Macomb County Community Mental Health. (CMH or Department).

ISSUE

Did the CMH properly deny Petitioner's request for continued Personal Care (PC) and Community Living Supports (CLS) in a Specialized Residential setting?

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 an adult Medicaid beneficiary who is eligible to receive services through the CMH. (Exhibit A; Testimony.)

2. CMH is under contract with the Michigan Department of Health and Human Services (MDHHS) to provide Medicaid covered services to people who reside in the CMH service area. (Exhibit A; Testimony.)

3. Petitioner is diagnosed with paranoid schizophrenia, generalized anxiety disorder, chronic obstructive pulmonary disease, and polydipsia (in remission). (Exhibit 2, p 8; Testimony.)

4. Petitioner also has a learning disability. (Exhibit 2, pp 86-88; Testimony.)

5. Petitioner is currently authorized to receive PC and CLS in a Specialized Residential setting, Targeted Case Management, and Medication Reviews through CMH. (Exhibit A, p 22; Testimony.)

6. Petitioner is currently taking the following medications: Ativan, Benztropine, Zyprexa, carBAMexepine (100 and 200 mg), Haloperidol, Topiramate, and Haloperidol. (Exhibit 2, p 7; Testimony.)

7. Petitioner has resided at [redacted] a Specialized Residential setting, since 2011, after being placed there by the local probate court. (Exhibit 2, p 1, 67-70; Testimony.)

8. Petitioner's last known hospitalization was in 2015. (Exhibit 2, pp 83-85; Testimony.)

9. Petitioner needs supervision and support 24 hours per day. (Exhibit A, p2; Testimony.) Petitioner requires prompts and supervision to complete personal care/hygiene tasks, but is able to complete the tasks on her own. (*Id*.) Petitioner requires medication management and reminders, prompts and supervision to take her medications daily. (Exhibit A, pp 19-20; Testimony.)

10. Petitioner has strong natural supports with her mother and father, who are also her guardians, but they are getting older and less able to care for Petitioner. (Exhibit 2, p 35; Testimony.)

11. Petitioner needs guidance and structure when in the community due to fears and anxiety in the community. (*Id*.) Petitioner at times presents with an increased paranoia that can be triggered from changes in her day-to day routine and environment. (*Id*.)

12. Petitioner reports chronic auditory hallucinations, but indicates she is able to distract herself from the voices by reading, doing puzzles, and listening to music. (Exhibit 2, p 38; Testimony.)

13. Petitioner's last PCP meeting was in January 2025. (Exhibit A, pp 16-25; Testimony.) Petitioner's mother/guardian was not made aware of the meeting but did later sign off on the document with some reservations regarding some of Petitioner's statements. (Exhibit 2, p 45; Testimony.)

14. When Petitioner was moved to a less restrictive environment in the past through a Supported Independent Living Program (SIP) she decomposed quickly and the police were involved numerous times. (Exhibit 2, pp 75-82; Testimony.)

15. In June 2025, Petitioner requested authorization for continued PC and CLS in a Specialized Residential setting. (Exhibit A, p 1, 9; Testimony.)

16. On June 30, 2025, following a utilization review, CMH issued a Notice of Adverse Benefit Determination, denying CLS and PC in a Specialized Residential setting. (Exhibit A, pp 9-15; Testimony.) Specifically, the

Notice indicated, in relevant part:

> Request received for Specialized Residential Services (SRS). The notes in your chart do not support the need for this service. . .
>
> (Exhibit A, p 9.)

17. On July 24, 2025, following a local appeal which was reviewed by an independent psychiatrist at PREST, CMH issued a Notice of Appeal Denial, which indicated in relevant part:

> You are asking for Support in a Residential Setting. We looked at the records. It does not appear that you need hands-on help with your daily living. You are medically ok, and no maladaptive behaviors are seen. You can get help with a different kind of care. Medical necessity is not met and denial is upheld.
>
> (Exhibit A, pp 3-8; Testimony)

18. On August 1, 2025, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules. (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.

> 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…

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 Michigan Department of Health and Human Services (MDHHS) operates a section 1915(b) and 1915(c) Medicaid Managed Specialty Services and Support program waiver. CMH contracts with MDHHS to provide services under the waiver pursuant to its contract obligations with the Department.

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate scope, duration, and intensity to reasonably achieve the purpose of the covered service. *See 42 CFR 440.230.*

The CMH is mandated by federal regulation to perform an assessment for the Petitioner to determine what Medicaid services are medically necessary and determine the amount or level of the Medicaid medically necessary services.

The applicable sections of the Medicaid Provider Manual (MPM) provide:

> **SECTION 11 – PERSONAL CARE IN LICENSED SPECIALIZED RESIDENTIAL SETTINGS**
>
> Personal care services are those services provided in accordance with an individual plan of service to assist a beneficiary in performing their own personal daily activities. For children with serious emotional disturbance, personal care services may be provided only in a licensed foster care setting or in a Child Caring Institution (CCI) if it is licensed as

a “children’s therapeutic group home” as defined in Section 722.111 Sec. 1(f) under Act No. 116 of the Public Acts of 1973, as amended.

For children with intellectual/ developmental disabilities, services may be provided only in a licensed foster care or CCI setting with a specialized residential program certified by the state. These personal care services are distinctly different from the state plan Home Help program administered by MDHHS.

Personal care services are covered when authorized by a physician or other health care professional in accordance with an individual plan of services and rendered by a qualified person. Supervision of personal care services must be provided by a health care professional who meets the qualifications contained in this chapter.

11.1 SERVICES

Personal care services include assisting the beneficiary to perform the following:

- Assistance with food preparation, clothing and laundry, and housekeeping beyond the level required by facility licensure, (e.g., a beneficiary requires special dietary needs such as pureed food);
- Eating/feeding;
- Toileting;
- Bathing;
- Grooming;
- Dressing;
- Transferring (between bed, chair, wheelchair, and/or stretcher);
- Ambulation; and
- Assistance with self-administered medications.

“Assisting” means staff performs the personal care tasks for the individual; or performs the tasks along with the individual

(i.e., some hands-on); or otherwise assists the individual to perform the tasks himself/herself by prompting, reminding, or by being in attendance while the beneficiary performs the task(s).

11.2 PROVIDER QUALIFICATIONS

Personal care may be rendered to a Medicaid beneficiary in a Foster Care or CCI setting licensed and certified by the state under the 1987 Michigan Department of Health and Human Services Administrative Rule R330.1801-09 (as amended in 1995). For children birth to 21, personal care may be rendered to a Medicaid beneficiary in a Child Caring Institution setting with a specialized residential program facility licensed by the State for individuals with I/DD under Act No. 116 of the Public Acts of 1973, as amended, and Act No. 258 of the Public Acts of 1974, as amended.

11.3 DOCUMENTATION

The following documentation is required in the beneficiary's file in order for reimbursement to be made:

- An assessment of the beneficiary's need for personal care.
- An individual plan of services that includes the specific personal care services and activities, including the amount, scope and duration to be delivered that is reviewed and approved at least once per year during person-centered planning.
- Documentation of the specific days on which personal care services were delivered consistent with the beneficiary's individual plan of service.

* * * *

17.2 DEFINITIONS OF GOALS THAT MEET THE INTENTS AND PURPOSE OF BEHAVIORAL HEALTH 1915(I) STATE PLAN AMENDMENT (SPA) SUPPORTS AND SERVICES

The goals (listed below) and their operational definitions will vary according to the individual's needs and desires. However, goals that are inconsistent with least restrictive environment (i.e., most integrated home, work, community

that meet the individual's needs and desires) and individual choice and control cannot be supported by BH 1915(i) SPA supports and services unless there is documentation that health and safety would otherwise be jeopardized; or that such least restrictive arrangements or choice and control opportunities have been demonstrated to be unsuccessful for that individual. Care should be taken to ensure that these goals are those of the individual first, not those of a parent, guardian, provider, therapist, or case manager, no matter how well intentioned. The services in the plan, whether BH 1915(i) SPA supports and services alone, or in combination with State Plan or Habilitation Supports Waiver services, must reasonably be expected to achieve the goals and intended outcomes identified. The configuration of supports and services should assist the individual to attain outcomes that are typical in their community; and without such services and supports, would be impossible to attain.

* * * *

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; and

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

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

- 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. (Emphasis added)

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;

- 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.

Medicaid Provider Manual
Behavioral Health and Intellectual and
Developmental Disability Supports and Services Chapter
April 1, 2025, pp 90-91; 145-146; 12-14
Emphasis added

Petitioner must prove, by a preponderance of the evidence, that she meets the above medical necessity criteria for PC and CLS in a Specialized Residential setting.

CMH's witness testified that Petitioner has been living at [redacted] a specialized residential setting, since 2011. CMH's witness indicated that Petitioner has

been fairing better since moving in and her last hospitalization was in 2015. CMH's witness indicated that while Petitioner does need 24/7 supervision, reminders, and prompting, she is not receiving any hands-on care as she can perform her Activities of Daily Living (ADL's) on her own. CMH's witness pointed out that the goals and objectives in Petitioner's IPOS have not changed since 2019.

Petitioner's father/guardian testified Petitioner's medical providers believe that Petitioner needs 24/7 medical support and cannot live in a less restrictive setting such as independent or semi-independent living.

Petitioner's father/guardian argued that policy indicated CMH cannot arbitrarily reduce services but that is what is happening here. Petitioner's father/guardian indicated that three doctors say Petitioner should remain where she is, so CMH's decision goes against doctors' orders. Petitioner's father/guardian testified that Petitioner has about a 9th grade mentality and is on heavy drugs so when she is being interviewed, she does not understand what is going on. Petitioner's father/guardian testified that Petitioner has established a good rapport with staff and administrators at her current home and it would be very difficult for her to move.

Petitioner's mother/guardian testified that Petitioner is exceptionally sweet and will say anything to agree with people. Petitioner's mother/guardian indicated that Petitioner has about a 3rd to 5th grade mentality and has been learning disabled her whole life in addition to her mental illness. Petitioner's mother/guardian testified that Petitioner easily gets side-tracked and would not remember her medications if left on her own. Petitioner's mother/guardian noted that if Petitioner misses her medications by even two hours her schizophrenia kicks in and she will do things that cause her harm. Petitioner's mother/guardian testified that Petitioner has never cooked and isolates herself because she is truly paranoid.

Petitioner's mother/guardian indicated that Petitioner needs to be prompted to take a shower and would never be able to seek out food on her own. Petitioner's mother/guardian testified that they have tried Petitioner in less restrictive settings in the past and they basically had to move in with her to take care of her. Petitioner's mother/guardian indicated that Petitioner is one of the most needy persons in her current home of six. Petitioner's mother/guardian testified that staff turnover is very high and she is not always told when there are meetings. Petitioner's mother/guardian pointed out that she was not involved in Petitioner's last PCP meeting in January 2025.

Petitioner's mother/guardian indicated that Petitioner will not survive outside of full care. Petitioner's mother/guardian testified that Petitioner takes 14 highly controlled medications per day, or more than any other resident in the home. Petitioner's mother/guardian indicated that Petitioner also has ADHD and cannot follow through on a thought or directions. Petitioner's mother/guardian indicated that she and her husband can no longer take care of Petitioner at their own advanced age.

In response, CMH's witness indicated that the CMH is not saying Petitioner has to leave [redacted] only that Petitioner does not meet the criteria for PC and CLS in a Specialized Residential setting because she does not require hands-on care with her ADL's or Instrumental Activities of Daily Living (IADL's). CMH's witness indicated that currently the home is receiving extra money for PC that they are not performing because Petitioner's needs can be met at the standard level of care in an AFC home.

CMH argues that Petitioner does not meet the medical necessity criteria for PC and CLS in a Specialized Residential setting because Petitioner is able to take care of her own personal care tasks and a Specialized Residential setting is not the least restrictive environment that can meet Petitioner's needs.

Having considered the parties' arguments in full, it is determined that Petitioner has met her burden of proof and, therefore, the CMH improperly denied the request for continued PC and CLS in a Specialized Residential setting.

As indicated above, "Personal care services include assisting the beneficiary to perform [activities]. . . beyond the level required by facility licensure. . ." In other words, to qualify for PC and CLS in a Specialized Residential setting, an individual must need more care than that provided in a general AFC home. Here, CMH argues that "hands-on" assistance is required to qualify for PC in a specialized residential setting, but policy also indicates, ""Assisting" means staff performs the personal care tasks for the individual; or performs the tasks along with the individual (i.e., some hands-on); or otherwise assists the individual to perform the tasks himself/herself by prompting, reminding, or by being in attendance while the beneficiary performs the task(s)."

Here, while Petitioner does not need hands-on assistance with her ADL's, she does need "prompting, reminding, or being in attendance" for Petitioner to perform the tasks. And, while that prompting, reminding, or being in attendance can occur at any licensed AFC home, policy also provides in circumstances where "there is documentation that health and safety would otherwise be jeopardized; or that such least restrictive arrangements or choice and control opportunities have been demonstrated to be unsuccessful for that individual, then a specialized residential setting is appropriate. Here, Petitioner has tried living in less restrictive settings in the past, including general AFC homes, but with disastrous results, including lengthy hospitalizations and probate court proceedings which ordered her into her current placement in 2011. Given this, it does appear that PC and CLS in a specialized residential setting is medically necessary for this Petitioner under these circumstances.

Petitioner bears the burden of proving by a preponderance of the evidence that PC and CLS in a Specialized Residential setting are a medical necessity in accordance with the Code of Federal Regulations (CFR) and Medicaid policy. Petitioner has met the burden to establish that such services are a medical necessity.

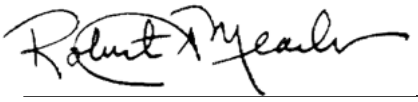
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that CMH improperly denied Petitioner's request for continued Personal Care and Community Living Supports in a Specialized Residential setting.

IT IS THEREFORE ORDERED that:

The CMH decision is **REVERSED**.

Within 10 days of receipt of this Order, Respondent shall certify to MOAHR that it has taken steps consistent with this Order.



ROBERT J. MEADE
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

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: **Authorized Hearing Representative**

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[redacted]