



Date Mailed: September 30, 2025

Docket No.: 25-028100

Case No.: [REDACTED]

Petitioner: [REDACTED]

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Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

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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 September 23, 2025. [REDACTED] Petitioner's sister and guardian, appeared and testified on Petitioner's behalf. [REDACTED] Petitioner, appeared but did not testify.

Heather Woods, Fair Hearing Officer, appeared and testified on behalf of Respondent, Southwest Michigan Behavioral Health, the PIHP for Woodlands Behavioral Health Network. (CMH or Department). Alyssa Darrah, IDD Supervisor, Woodlands; Jeremy Franklin, Clinical Quality Specialist; and Regina Wolverton, Customer Service Representative, Woodlands, appeared as witnesses for Respondent.

ISSUE

Whether Respondent properly denied Community Living Supports (CLS) in a Semi-Independent Living (SIL) setting on the grounds that Petitioner's needs can be met in a less restrictive, medically necessary, and cost-effective setting, such as Adult Foster Care (AFC) or independent living?

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 with developmental disabilities who is eligible to receive services through the CMH and lives with his sister and guardian. (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 has expressed a desire to live independently and has toured SIL options, which he preferred over AFC homes. Petitioner's guardian testified that AFC homes toured were unsuitable due to shared bedrooms and lack of privacy. (Exhibit A, p 11; Testimony.)

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4. Petitioner requires reminders for personal hygiene and activities of daily living, including bathing, grooming, and completing household chores. With prompting, he is able to wash dishes, sweep, clean, fold laundry, and heat meals in a microwave. (Exhibit A, p 11; Testimony.)
 5. Petitioner has natural supports, including his guardian, case management, therapy, and a pending referral for job coaching. His guardian serves as his payee. (Exhibit A, pp 12-13; Testimony.)
 6. Petitioner currently receives 15 hours per week of CLS, in addition to Supported Employment services, Respite, therapy, and case management. (Exhibit A, p 14; Testimony.)
 7. Petitioner has made progress in self-care and household skill development with prompts. (Exhibit A, p 16; Testimony.)
 8. Respondent's utilization review on August 25, 2025, concluded that Petitioner's needs could be met through continued CLS services in conjunction with AFC placement, which would provide 24-hour support and oversight. (11-17; Testimony.)
 9. On May 5, 2025, CMH sent Petitioner a Notice of Adverse Benefit Determination, denying CLS in an SIL setting. (Exhibit A, pp 3-5; Testimony.) Specifically, the Notice indicated, in relevant part:

You do not meet medical need to live in a Semi Independent Living Setting with Community Living Supports. A least restrictive choice has not been tried. This might be General Adult Foster Home. You do not need hands on help with daily tasks. These might be showering, brushing your teeth. It could also be getting dressed. An AFC would be able to remind you to do tasks. They can give night staff to make you feel safe. Your case worker can help you find the right supports. You can let us know if you have questions.

(Exhibit A, p 4.)

10. On June 24, 2025, following a local appeal, Petitioner was sent a Notice of Appeal Denial, which indicated in relevant part:

Your appeal was reviewed by Alyssa Darrah, I/DD (Intellectual Development Disability) Supervisor on 6/23/25. Your guardian wants you to live in a SIL (Semi Independent Living) home.

Your guardian wants the costs covered by Medicaid. Your guardian can work with LADD (Living Alternatives for the Developmentally Disabled) with support from your Case Manager to get housing set up in one of the LADD homes if LADD agrees to cooperate with her. Your guardian will need to discuss rates and rent with LADD. Your guardian is also thinking about AFC (Adult Foster Care) placement for you or you having your own place. AFC placement or you having your own place is the level of living support that has been set for you based on our evaluation of your needs. Your current level of CLS (Community Living Support) is lower than what would be given to you in a SIL. Based on your assessment and level of care your best fit is AFC placement or independent housing.

(Exhibit A, pp 6-8; Testimony)

11. On August 11, 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.

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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:

**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 he meets the above medical necessity criteria for CLS in a SIL.

Respondent asserts that Petitioner's request does not meet the medical necessity requirements for SIL services. Respondent relies on utilization review conducted by Jeremy Franklin, LPC, on August 25, 2025.

Petitioner's sister and guardian argues that Petitioner has consistently expressed a desire to live outside her home, preferably in a SIL home, such as those operated by LADD. Petitioner's guardian contends that Petitioner's needs, including prompting for hygiene, support with chores, difficulty managing dizziness, and fear of being alone, justify placement in SIL. She further asserts that AFC settings previously toured were unsuitable due to shared bedrooms, lack of privacy, and her belief that such environments would be a setback for Petitioner's progress.

Petitioner's sister also emphasizes that Petitioner has shown excitement when touring SIL options, while feeling disappointed and discouraged when informed of denial. She maintains that SIL represents the least restrictive, most supportive option for Petitioner to thrive and achieve independence.

Having considered the parties' arguments in full, it is determined that Petitioner has failed to meet his burden of proof and, therefore, the CMH properly denied the request for CLS in an SIL.

Under Medicaid's medical necessity criteria, there exists a more clinically appropriate, less restrictive, and more integrated setting in the community for Petitioner. Specifically, given the evidence presented, Petitioner's needs can be met in a general AFC home, with possible PC and CLS assistance through the CMH if Petitioner is eligible.

While Petitioner's sister and guardian has genuine concerns about Petitioner's safety, independence, and comfort, Medicaid services must be authorized according to standards of medical necessity. The clinical review established that Petitioner is capable of performing basic self-care and household tasks with prompts, and that his current CLS and natural supports sufficiently address his needs. Importantly, the record reflects that AFC placement would provide 24-hour oversight and structured support, thereby addressing Petitioner's vulnerabilities while fostering continued skill development.

The Petitioner's dissatisfaction with toured AFC homes, primarily related to privacy concerns, does not override the Medicaid requirement that services be provided in the least restrictive, medically necessary, and cost-effective setting. Moreover, SIL services are intended for individuals requiring a higher level of independence than Petitioner presently demonstrates.

As indicated above, policy provides that “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. Here, an AFC home is a less restrictive environment than a SIL setting and Petitioner’s needs can be met in an AFC home.

Petitioner bears the burden of proving by a preponderance of the evidence that Community Living Supports (CLS) in an SIL setting are a medical necessity in accordance with the Code of Federal Regulations (CFR) and Medicaid policy. Petitioner did not meet 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 properly denied Petitioner’s request for CLS in an SIL setting.

IT IS THEREFORE ORDERED that:

The CMH decision is **AFFIRMED**.



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 Electronic Mail:

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