



Date Mailed: October 28, 2025

Docket No.: 25-032389

Case No.: [REDACTED]

Petitioner: [REDACTED]

[REDACTED]
MI [REDACTED]

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someone translate the document.**

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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 and upon Petitioner's request for a hearing.

After due notice, a telephone hearing was held on October 22, 2025. [REDACTED] Petitioner's mother appeared on behalf of Petitioner. George Motakis, State Fair Hearing Officer, appeared on behalf of Respondent, Macomb County (Department). Elizabeth Dephouse; and Michelle Anguiano appeared as witnesses for Department.

Exhibits:

Petitioner	None
Department	A – Hearing Summary

ISSUE

Did Department properly deny Petitioner's request for enrollment in the Children's Waiver Program (CWP)?

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 three-year-old who lives with her mother and father and has been diagnosed with autism spectrum disorder, epileptic encephalopathy with mutation in KCNQ2 gene, laryngomalacia (congenital) seizures, global developmental delay, cerebral palsy, developmental non-verbal disorder, hypotonia, dysphagia, gastroesophageal reflux disease, recurrent suppurative otitis media of both ears, constipation, irritability, urinary incontinence without sensory awareness, tympanostomy tube placement, microcytic anemia, and atopic eczema. (Exhibit A.)
2. At all times relevant to this proceeding, Petitioner had commercial insurance coverage through Priority Health. (Exhibit A; Testimony.)
3. Prior to July 2025, Petitioner was approved for and receiving coverage through the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). (Exhibit A; Testimony.)

4. In order to apply for the CWP, Petitioner disenrolled from TEFRA. (Exhibit A; Testimony.)
5. In August of 2025, Petitioner applied for the CWP and was denied. (Exhibit A; Testimony.)
6. In July of 2025, Petitioner reapplied for the CWP. (Exhibit A; Testimony.)
7. On July 10, 2025, Department sent Petitioner a Notice of Adverse Benefit Determination. The notice indicated Petitioner did not meet the criteria for the CWP because Petitioner was not at risk of out of home placement without the CWP covered supports. (Exhibit A; Testimony.)
8. On August 7, 2025, Petitioner submitted to the Department, an internal appeal. (Exhibit A; Testimony.)
9. On August 26, 2025, Department sent Petitioner a Notice of Appeal Denial. The notice indicated the previous Notice of Adverse Benefit Determination was upheld as Petitioner's needs did not rise to the level of ICF (Immediate Care Facility/IDD (intellectual and developmental disabilities) level of care. (Exhibit A; Testimony.)
10. On September 12, 2025, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing. (Exhibit A.)

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.¹

¹ 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.²

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...³

Here, as discussed above, Petitioner requested services through Department pursuant to the CWP. With respect to that waiver, the applicable version of the Medicaid Provider Manual (MPM) provides in part:

SECTION 14 – CHILDREN’S HOME AND COMMUNITY-BASED SERVICES WAIVER (CWP)

The Children’s Home and Community Based Services Waiver Program (CWP) provides services that are enhancements or additions to regular Medicaid coverage to children up to age 18 who are enrolled in the CWP.

Services, equipment and Environmental Accessibility Adaptations (EAAs) that require prior authorization from MDHHS must be submitted to the CWP Clinical Review Team at MDHHS. The team is comprised of a physician, registered nurse, psychologist, and licensed master’s social worker with consultation by a building specialist and an occupational therapist.

14.1 KEY PROVISIONS

² 42 CFR 430.10.

³ 42 USC 1396n(b).

The CWP enables Medicaid to fund necessary home- and community-based services for children with developmental disabilities who reside with their birth or legally adoptive parent(s) or with a relative who has been named legal guardian under the laws of the State of Michigan, regardless of their parent's income.

The CMHSP is responsible for assessment of potential waiver candidates. The CMHSP is also responsible for referring potential waiver candidates by completing the CWP "pre-screen" form and sending it to the MDCH to determine priority rating.

Application for the CWP is made through the CMHSP. The CMHSP is responsible for the coordination of the child's waiver services. The case manager, the child and his family, friends, and other professional members of the planning team work cooperatively to identify the child's needs and to secure the necessary services. All services and supports must be included in the Individual Plan of Services (IPOS). The IPOS must be reviewed, approved and signed by the physician.

A CWP beneficiary must receive at least one children's waiver service per month in order to retain eligibility.

14.2 ELIGIBILITY

The following eligibility requirements must be met:

- The child must have a developmental disability (as defined in Michigan state law), be less than 18 years of age and in need of habilitation services.
- The child must have a score on the Global Assessment of Functioning (GAF) Scale of 50 or below.
- The child must reside with his birth or legally adoptive parent(s) or with a relative who has been named the legal guardian for that child under the laws of the State of Michigan, provided that the relative is not paid to provide foster care for that child.
- **The child is at risk of being placed into an ICF/IID facility because of the intensity of the child's care and the lack of needed support, or the child currently resides in an ICF/IID facility but, with appropriate community support, could return home.**
- The child must meet, or be below, Medicaid income and asset limits when viewed as a family of one (the parent's income is waived).

- The child's intellectual or functional limitations indicate that he would be eligible for health, habilitative and active treatment services provided at the ICF/IID level of care. Habilitative services are designed to assist individuals in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community-based settings. Active treatment includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services. Active treatment is directed toward the acquisition of the behaviors necessary for the beneficiary to function with as much self-determination and independence as possible, and the prevention or deceleration of regression or loss of current optimal functional status.⁴

The Medicaid Provider Manual, defines an Intermediate Care Facility for Individuals with Intellectual Disabilities as the following:

- The facility primarily provides health-related care and services above the level of custodial care to individuals with intellectual disabilities, but does not provide the level of care or treatment available in a hospital or SNF.⁵

Here, pursuant to the above policies, Department denied Petitioner's request for enrollment in the CWP. Petitioner then appealed that decision.

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

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 Department's decision must, therefore, be affirmed.

The MPM sets clear requirements that must be met in order for beneficiaries to be eligible for the CWP, and for someone Petitioner's age, those requirements include meeting MDHHS criteria; being at risk of being placed into an ICF/IID facility **because of the intensity of the child's care and the lack of needed support...**⁶.

⁴ Medicaid Provider Manual, Behavioral Health and Intellectual and Developmental Disability Supports and Services, July 1, 2025, pp 109-110.

⁵ Medicaid Provider Manual, Beneficiary Eligibility, July 1, 2025, p 12.

⁶ Medicaid Provider Manual, Behavioral Health and Intellectual and Developmental Disability Supports and Services, July 1, 2025, p 109.

Moreover, while Petitioner argues Petitioner does meet the criteria, Petitioner failed to identify the specific medical needs of the Petitioner that were not being met through the array of services already being provided by the commercial insurance coverage and the benefits of the TEFRA program. Furthermore, the evidence does not indicate that Petitioner without CWP is at risk of being placed in a ICF/IID facility.

Accordingly, while Petitioner may still be eligible for services through Department, she does not meet criteria for the CWP; and Department properly denied the request for enrollment.

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 enrollment in the CWP.

IT IS THEREFORE ORDERED that

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

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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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