

Date Mailed: February 27, 2026

Docket No.: 25-041648

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 telephone hearing was held on December 30, 2025. After the hearing, it was determined that the proper representatives were not present for the hearing so it was rescheduled for January 27, 2026. [REDACTED], Petitioner, appeared and testified on his own behalf.

Allison Pool, Appeals Review Officer, appeared on behalf of Respondent, Michigan Department of Health and Human Services (Respondent, Department or MDHHS). Ian Lowers, Departmental Analyst appeared as a witness for Respondent. Michelle Scholten, RN, appeared on behalf of iMPROve Health, the secondary reviewer. Shelby Husar, Supports Coordinator; and Rachel Rigoni, Supports Coordinator, Team Lead, appeared on behalf of the Waiver Agency, Upper Peninsula Commission for Area Progress. Jaclyn Tammelin, Clinical Coordinator and Jamie Hanes, Clinical Services Manager, appeared on behalf of Petitioner's health plan, Upper Peninsula Health Plan.

At the conclusion of the January 27, 2026, hearing, questions arose regarding substantial weight loss reported by Petitioner's providers but not reflected in the records reviewed during the initial secondary review. This Administrative Law Judge ordered an additional review specifically focused on Petitioner's weight history and the hearing was continued on February 25, 2026. Petitioner did not appear for this hearing, but Respondent's representatives did appear and the matter proceeded as scheduled.

ISSUE

Did the Waiver Agency properly determine that Petitioner was not eligible for the MI Choice Waiver Program?

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 who requested services through the MI Choice Waiver Program. (Exhibit A, p 3; Testimony.)

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2. The Waiver Agency is a contract agent of the Department and is responsible for waiver eligibility determinations and the provision of MI Choice Waiver Services. (Exhibit A; Testimony.)
 3. On September 19, 2025, a Level of Care Determination (LOCD) was conducted for Petitioner, who was determined eligible for nursing facility level of care through Door 1: Activities of Daily Living. (Exhibit A, pp 48-55; Testimony.)
 4. On October 30, 2025, Petitioner was reassessed by the Upper Peninsula Health Plan under the LOCD based on a significant change in condition and found to be ineligible to receive Medicaid reimbursed NF services. Petitioner did not meet the LOCD criteria within the seven-day look-back period for Doors 1, 2, 5 and 6, nor did he meet the criteria in Doors 3 and 4 within the fourteen-day look-back period. The three criteria required in Door 7 were also not met. (Exhibit A, pp 56-63; Testimony.)
 5. On November 4, 2025, a secondary review was initiated by iMPROve Health per Petitioner's request. After reviewing Petitioner's records, iMPROve Health's Nurse Reviewer determined that Petitioner did not meet the secondary review criteria, including Door 8. (Exhibit A, pp 72-77; Testimony.)
 6. Petitioner was advised of the Department's action via Advance Action Notice. (Exhibit A, p 73; Testimony.)
 7. On November 21, 2025, the Michigan Office of Administrative Hearings and Rules received Petitioner's request for an administrative hearing. (Exhibit A, pp 7-8).

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.

This Petitioner is claiming services through the Department's Home and Community Based Services for Elderly and Disabled (HCBS/ED). The waiver is called MI Choice in Michigan. The program is funded through the federal Centers for Medicare and Medicaid (formerly HCFA) to the Michigan Department of Health and Human Services (Department). Regional agencies function as the Department's administrative agency.

Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State

plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440 and subpart G of part 441 of this chapter. *42 CFR 430.25(b)*

A waiver under section 1915(c) of the [Social Security] Act allows a State to include as “medical assistance” under its plan, home and community-based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF [Skilled Nursing Facility], ICF [Intermediate Care Facility], or ICF/IID [Intermediate Care Facility/Individuals with Intellectual Disabilities], and is reimbursable under the State Plan. *42 CFR 430.25(c)(2)*

The policy regarding enrollment in the MI Choice Waiver program is contained in the *Medicaid Provider Manual*, which provides in part:

SECTION 1 – GENERAL INFORMATION

MI Choice is a waiver program operated by the Michigan Department of Health and Human Services (MDHHS) to deliver home and community-based services to elderly persons and persons with physical disabilities who meet the Michigan nursing facility level of care criteria. The waiver is approved by the Centers for Medicare & Medicaid Services (CMS) under sections 1915(b) and 1915(c) of the Social Security Act. MDHHS carries out its waiver obligations through a network of enrolled providers that operate as Prepaid Ambulatory Health Plans (PAHPs). These entities are commonly referred to as waiver agencies. MDHHS and its waiver agencies must abide by the terms and conditions set forth in the approved waivers.

MI Choice services are available to qualified participants throughout the state, and all provisions of the program are available to each qualified participant unless otherwise noted in this policy and approved by CMS. MDHHS will not enact any provision to the MI Choice program that prohibits or inhibits a participant’s access to a person-centered service plan, discourages participant direction of services, interferes with a participant’s right to have grievances and complaints heard, or endangers the health and welfare of a participant. The program must monitor and actively seek to improve the quality of services delivered to participants. Safeguards are utilized to ensure the integrity of payments for waiver services and the adequacy of systems to maintain compliance with federal requirements.

Waiver agencies are required to provide oral and written assistance to all Limited English Proficient applicants and participants. Agencies must arrange for translated materials to be accessible or make such information available orally through bilingual staff or the use of interpreters.

SECTION 2 – ELIGIBILITY

The MI Choice program is available to persons who are either elderly (age 65 or older) or adults with disabilities aged 18 or older and meet the following eligibility criteria:

- An applicant must establish their financial eligibility for Medicaid services as described in the Financial Eligibility subsection of this chapter.
- Must be categorically eligible for Medicaid as aged or disabled.
- The applicant must meet functional eligibility requirements through the online version of the Michigan Medicaid Nursing Facility Level of Care Determination (LOCD).
- It must be established that the applicant requires at least two waiver services, one of which must be Supports Coordination, and that the service needs of the applicant cannot be fully met by existing State Plan or other services.

All criteria must be met to establish eligibility for the MI Choice program. MI Choice participants must continue to meet these eligibility requirements on an ongoing basis to remain enrolled in the program.

2.1 FINANCIAL ELIGIBILITY

Medicaid reimbursement for MI Choice services requires a determination of Medicaid financial eligibility for the applicant by MDHHS. As a provision of the waiver, MI Choice applicants benefit from an enhanced financial eligibility standard compared to basic Medicaid eligibility. Specifically, MI Choice is available to participants in the special home and community-based group under 42 CFR §435.217 with a special income level up to 300% of the Supplemental Security Income (SSI) Federal Benefit Rate. Medicaid eligibility rules stipulate that participants are not allowed to spend-down to the income limit to become financially eligible for MI Choice.

To initiate a financial eligibility determination, MI Choice waiver agencies must enter enrollment notifications electronically in the Community Health Automated Medicaid Processing System (CHAMPS). Once the electronic enrollment is completed in CHAMPS, the participant will be assigned an associated MI Choice Program Enrollment Type (PET) code. MI Choice waiver agencies must enter disenrollment notifications electronically in CHAMPS to notify MDHHS of participants who are no longer enrolled in MI Choice.

Once an electronic disenrollment is completed in CHAMPS, the participant's PET code will end to reflect a disenrollment date. Proper recordkeeping requirements must be followed and reflected in the applicant's or participant's case record.

2.2 FUNCTIONAL ELIGIBILITY

The MI Choice waiver agency must verify an applicant's functional eligibility for program enrollment using the LOCD application in CHAMPS. Waiver agencies must conduct an LOCD in person with an applicant and submit that information in the LOCD application in CHAMPS, or the agency may adopt the current existing LOCD conducted by another provider. The information submitted is put through an algorithm within the application to determine whether the applicant meets LOCD criteria. Only the LOCD application in CHAMPS can determine functional eligibility for the nursing facility level of care. Additional information can be found in the Nursing Facility Level of Care Determination Chapter and is applicable to MI Choice applicants and participants.

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*Medicaid Provider Manual
MI Choice Waiver Chapter
October 1, 2025, pp 1-2*

The Nursing Facility Level of Care Chapter of the Medicaid Provider Manual provides, in pertinent part:

SECTION 4 – NURSING FACILITY LEVEL OF CARE DETERMINATION CRITERIA

The Michigan Nursing Facility Level of Care Determination criteria includes seven domains of need, called Doors. The Doors include: (1) Activities of Daily Living; (2) Cognitive Performance; (3) Physician Involvement; (4) Treatments and Conditions; (5) Skilled Rehabilitation Therapies; (6) Behaviors; and (7) Service Dependency. The Doors and the assessment items are listed below. Guidance on administering the LOCD, including definitions and methods, is provided in the Michigan Medicaid Nursing Facility Level of Care Determination Field Definition Guidelines.

The LOCD should be an accurate reflection of an individual's current functional status. This information is gathered in a face-to-face meeting by speaking to the individual and those who know the individual well, observing the individual's activities, and reviewing an individual's medical documentation.

Refer to the Michigan Medicaid Nursing Facility Level of Care Determination Field Definition Guidelines on the MDHHS website for more information. (Refer to the Directory Appendix for website information.)

4.1 DOOR 1: ACTIVITIES OF DAILY LIVING

Door 1 assesses four ADLs: (1) Bed Mobility; (2) Transfers; (3) Toilet Use; and (4) Eating.

4.2 DOOR 2: COGNITIVE PERFORMANCE

Door 2 assesses short-term memory, cognitive skills for daily decision-making and making self-understood.

4.3 DOOR 3: PHYSICIAN INVOLVEMENT

Door 3 assesses the frequency of physician visits and physician order changes.

4.4 DOOR 4: TREATMENTS AND CONDITIONS

Door 4 assesses a set of nine treatments and conditions that may be a predictor of potential frailty or increased health risk. The treatments and conditions include: Stage 3-4 Pressure Sores; Intravenous or Parenteral Feeding; Intravenous Medications; End-stage Care; Daily Tracheostomy Care, Daily Respiratory Care, Daily Suctioning; Pneumonia within the Last 14 Days; Daily Oxygen Therapy; Daily Insulin with Two Order Changes in the Last 14 Days; and Peritoneal or Hemodialysis.

4.5 DOOR 5: SKILLED REHABILITATION THERAPIES

Door 5 assesses the presence of rehabilitation interventions, including physical therapy, occupational therapy, and speech therapy.

4.6 DOOR 6: BEHAVIOR

Door 6 assesses behavioral challenges. It includes five behavioral symptoms: wandering, verbal abuse, physical abuse, socially inappropriate or disruptive behavior, and resistance to care. Door 6 also assesses for the presence of delusions and hallucinations.

4.7 DOOR 7: SERVICE DEPENDENCY

Door 7 applies to beneficiaries currently receiving other services and supports in nursing facilities, MI Choice, PACE, or the MI Health Link HCBS Waiver program.

It assesses the beneficiary's dependence on services to maintain the current level of functioning and whether there are options for maintaining the level of functioning with services and supports available in the community.

4.8 DOOR 8: FRAILITY

MDHHS or its designee determined that the beneficiary is eligible for Medicaid LTSS services based upon the Frailty Criteria. Individuals who exhibit certain behaviors and treatment characteristics that indicate frailty may be admitted or enrolled to LTSS programs requiring an LOCD. The individual needs to trigger one element of this criteria to be considered for Frailty. Refer to the Michigan Medicaid Nursing Facility Level of Care Determination Exception Process on the MDHHS website for more information. (Refer to the Directory Appendix for website information.) For the MI Health Link program, the Frailty Criteria are applied by the Integrated Care Organization.

4.9 DOOR 0: INELIGIBLE

The LOCD was conducted and the beneficiary did not meet the criteria for any of the doors. The beneficiary is not eligible for Medicaid LTSS services at this time. (Refer to the Individual Does Not Meet LOCD Criteria, Action Notices, and Appeal Rights section for additional information.)

4.10 DOOR 87: ELIGIBLE PENDING FACE-TO-FACE REASSESSMENT

The passive redetermination process could not confirm eligibility. The provider has 45 days from the date of the passive redetermination or until the current End Date, whichever is earlier, to conduct a new face-to-face assessment.

*Medicaid Provider Manual
Nursing Facility Level of Care Determination Chapter
October 1, 2025, pp 9-10*

To be found eligible for MI Choice Waiver services, Petitioner must meet the requirements of at least one Door. The Waiver Agency presented testimony and documentary evidence that Petitioner did not meet any of the criteria for Doors 1 through 7.

Door 1
Activities of Daily Living (ADLs)

Scoring Door 1: The applicant must score at least six points to qualify under Door 1.

- (A) Bed Mobility, (B) Transfers, and (C) Toilet Use:
 - Independent or Supervision = 1
 - Limited Assistance = 3
 - Extensive Assistance or Total Dependence = 4
 - Activity Did Not Occur = 8
- (D) Eating:
 - Independent or Supervision = 1
 - Limited Assistance = 2
 - Extensive Assistance or Total Dependence = 3
 - Activity Did Not Occur = 8

Petitioner was found to be independent with bed mobility, transfers, toilet use, and eating based on the Department's witnesses' observations and Petitioner's verbal answers to their questions. As such, Petitioner did not qualify through Door 1.

Door 2
Cognitive Performance

Scoring Door 2: The applicant must score under one of the following three options to qualify under Door 2.

1. "Severely Impaired" in Decision Making.
2. "Yes" for Memory Problem, and Decision Making is "Moderately Impaired" or "Severely Impaired."
3. "Yes" for Memory Problem, and Making Self Understood is "Sometimes Understood" or "Rarely/ Never Understood."

Petitioner's short-term memory was found to be okay, cognitive skills for daily decision making were independent, and he/she was able to make himself/herself understood. As such, Petitioner did not qualify under Door 2.

Door 3
Physician Involvement

Scoring Door 3: The applicant must meet either of the following to qualify under Door 3:

1. At least one Physician Visit exam AND at least four Physicians Order changes in the last 14 days, OR
2. At least two Physician Visit exams AND at least two Physicians Order changes in the last 14 days.

Petitioner had 0 physician visits and 0 physician order changes within 14 days of the assessment. As such, Petitioner did not qualify under Door 3.

Door 4
Treatments and Conditions

Scoring Door 4: The applicant must score “yes” in at least one of the nine categories above and have a continuing need to qualify under Door 4.

In order to qualify under Door 4 the applicant must receive, within 14 days of the assessment date, any of the following health treatments or demonstrated any of the following health conditions:

- A. Stage 3-4 pressure sores
- B. Intravenous or parenteral feedings
- C. Intravenous medications
- D. End-stage care
- E. Daily tracheostomy care, daily respiratory care, daily suctioning
- F. Pneumonia within the last 14 days
- G. Daily oxygen therapy
- H. Daily insulin with two order changes in last 14 days
- I. Peritoneal or hemodialysis

Petitioner did not report having any of the conditions listed in Door 4 and was not receiving any of the treatments listed in Door 4. Accordingly, Petitioner did qualify under Door 4.

Door 5
Skilled Rehabilitation Therapies

Scoring Door 5: The Petitioner must have required at least 45 minutes of active ST, OT or PT (scheduled or delivered) in the last 7-days and continues to require skilled rehabilitation therapies to qualify under Door 5.

Petitioner was not receiving any skilled rehabilitation therapies at the time of the LOCD. Accordingly, Petitioner did not qualify under Door 5.

Door 6
Behavior

Scoring Door 6: The applicant must score under one of the following 2 options to qualify under Door 6.

- 1. A “Yes” for either delusions or hallucinations within the last 7 days.
- 2. The applicant must have exhibited any one of the following behaviors for at least 4 of the last 7 days (including daily): Wandering, Verbally Abusive,

Physically Abusive, Socially Inappropriate/Disruptive,
or Resisted Care.

Petitioner did not have any delusions or hallucinations within seven days of the LOCD. Petitioner did not exhibit any of the challenging behaviors associated with Door 6 within the seven days of the LOCD. Accordingly, Petitioner did not qualify under Door 6.

Door 7
Service Dependency

Scoring Door 7: The applicant must be a current participant and demonstrate service dependency under Door 7.

The LOC Determination provides that the Petitioner could qualify under Door 7 if she is currently (and has been a participant for at least one (1) year) being served by either the MI Choice Program, PACE program, or Medicaid reimbursed nursing facility, requires ongoing services to maintain current functional status, and no other community, residential, or informal services are available to meet the applicant's needs.

Here, Petitioner has not been a participant in the Waiver Program for at least one year so she did not qualify under Door 7.

Door 8
Frailty

Scoring Door 8: Individuals who exhibit certain behaviors and treatment characteristics that indicate frailty may be admitted or enrolled to LTSS programs requiring an LOCD. The Nursing Facility Level of Care Exception Process criteria is set forth below:

An applicant need trigger only one element to be considered for an exception.

Frailty

The applicant has a significant level of frailty as demonstrated by at least one of the following categories:

- Applicant performs late loss ADLs (bed mobility, toileting, transferring and eating) independently but requires an unreasonable amount of time
- Applicant's performance is impacted by consistent shortness of breath, pain or debilitating weakness during any activity
- Applicant has experienced at least two falls in the home in the past month

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- Applicant continues to have difficulties managing medications despite the receipt of medication set up services
 - Applicant exhibits evidence of poor nutrition, such as continued weight loss, despite the receipt of meal preparation services
 - Applicant meets criteria for Door 3 when emergency room visits for clearly unstable conditions are considered

Behaviors

The applicant has at least a one month history of any of the following behaviors, and has exhibited two or more of any these behaviors in the last seven days, either singly or in combination:

- Wandering
- Verbal or physical abuse
- Socially inappropriate behavior
- Resists care

Treatments

The applicant has demonstrated a need for complex treatments or nursing care.

Here, following a review by iMPROve Health, Petitioner was found to not meet the secondary review criteria, including frailty.

iMPROve Health's Nurse Reviewer testified that upon review of Petitioner's records, Petitioner did not meet any of the exception requirements for Door 8. iMPROve Health's Nurse Reviewer indicated that there was nothing in the records indicating that Petitioner took an unreasonable amount of time to complete ADL's or had consistent shortness of breath or pain that interfered with the completion of ADL's. iMPROve Health's Nurse Reviewer testified that Petitioner had no history of falls, no evidence of poor nutrition or weight loss, no emergency room visits, and no inappropriate behaviors within the lookback period. However, iMPROve Health's Nurse Reviewer indicated that there was no information included in the LOCD regarding Petitioner's apparent weight loss or nutrition issues.

Petitioner testified that he recently completed a 30-day rehabilitation program. Over the past year he has lost approximately twenty-four pounds and continues to struggle with eating properly. He explained that his wife passed away on January 6, 2025, and since then he has been entirely alone, with no close friends or relatives to assist him. He reported experiencing significant neuropathy in his legs, which limits his ability to walk even short distances and requires him to sit and rest frequently.

Simple tasks take him a long time; for example, frying an egg can take half an hour because he must repeatedly sit down due to discomfort and fatigue.

He lives alone in a single-family home and stated that he cannot walk to his mailbox. He is attempting to gain weight by eating more frequently and snacking throughout the day. He orders his groceries from Walmart and receives food stamps, and he feels he has the basic supplies he needs in his home. When he must attend medical appointments, he takes a cab. Although he has one acquaintance, he emphasized that this person has his own responsibilities and cannot help care for him.

Petitioner reported needing several supportive services, including home-delivered meals, non-medical transportation for socialization, heavy-duty chore services such as snow removal, and personal care services to assist with his activities of daily living (ADLs) and instrumental activities of daily living (IADLs). He previously paid out-of-pocket for a lifeline device and hopes to receive one through UPCAP.

He also testified that he spent a month in the hospital and continues to experience episodes of dizziness and a racing heart even when he is simply sitting on the couch. He stated that no one is currently coming into the home to help him and that he feels unable to manage his needs alone.

As indicated, after Petitioner's January 27, 2026, hearing, questions arose regarding substantial weight loss reported by his providers but not reflected in the records reviewed during the initial secondary review. This Administrative Law Judge ordered an additional review specifically focused on Petitioner's weight history.

iMPROve Health's Nurse Reviewer subsequently contacted the UPHP, which had conducted Petitioner's Health Risk Assessments (HRAs). Records indicated that in January 2025 his weight was recorded at [REDACTED], with an estimated height of [REDACTED]. A second HRA completed on October 22, 2025, documented his weight at [REDACTED]. This 24-pound loss over approximately nine months represented a 16.6% decline in total body weight. Petitioner had also resided in a skilled nursing facility for part of this period, which the Department found was sufficient to confirm access to prepared meals as required for BMI-related eligibility determinations. iMPROve Health's Nurse Reviewer confirmed a diagnosis of Failure to Thrive and reiterated that Petitioner's weight loss was clinically significant. Hospital staff had noted that his ideal body weight should be approximately [REDACTED], substantially higher than both his prior and current weights.

Based on this updated information, iMPROve Health's Nurse Reviewer concluded that Petitioner met the criteria for Door 8—Significant Weight Loss, and would have been approved under that category had the weight-loss data been available during the original secondary review.

Although system constraints prevented immediate reversal of his Door 0 status in CHAMPS, the Department indicated that efforts were underway to inactivate Door 0 and enter Door 8 to more accurately reflect his functional status.

The Department also acknowledged that Petitioner could not re-enroll in the MI Coordinated Health program due to its unavailability in his county but noted that Door 8 eligibility would qualify him for MICHoice services, and an expedited referral was being explored. The Department's Analyst indicated that a meeting with UPCAP, the MI Choice Waiver agency, was scheduled for March 2, 2026.

Based on the information available following the subsequent secondary review, Petitioner does meet the Medicaid nursing facility level of care criteria under Door 8. As such, the Department's determination should be reversed. The Department should continue to assist Petitioner in obtaining services through his local MI Choice Waiver agency if he still qualifies.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Waiver Agency improperly determined that Petitioner was not medically eligible for the MI Choice Waiver Program.

IT IS THEREFORE ORDERED that:

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

The Department should continue to assist Petitioner in obtaining services through UPCAP, his local MI Choice Waiver agency.



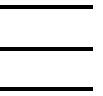
ROBERT J. MEADE
ADMINISTRATIVE LAW JUDGE

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://irs.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
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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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