



Date Mailed: January 21, 2026
Docket No.: 25-043401
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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Docket No.: 25-043401

Case No.: [REDACTED]

Petitioner: [REDACTED]

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Petitioner's request for a hearing.

After due notice, a hearing was held on January 15, 2025. [REDACTED], Petitioner, appeared and testified on his own behalf. Kristin Guise, OBRA Appeals Coordinator, appeared and testified on behalf of Respondent, Michigan Department of Health and Human Services (Respondent, MDHHS or Department). Kathleen Johnson, State Administrative Manager, appeared as a witness for the Department.

ISSUE

Did the Department properly determine that the Petitioner does not qualify for the level of services provided by a nursing facility?

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 and a [REDACTED] with longstanding psychiatric diagnoses including Borderline Personality Disorder, additional personality traits, and ADHD recognized as a developmental disability; he is currently not on psychotropic medication (Exhibit A, pp. 21–24; Testimony).
2. During 2025 he experienced repeated emergency room presentations, suicide attempts (including overdose), self-injury, episodic homicidal ideation, property destruction, and aggression toward staff, with documented incidents in July through October 2025 (Exhibit A, pp. 7-9, 21; Testimony).
3. Petitioner is independently mobile in his personal wheelchair, can perform stand-pivot transfers with supervision/limited assistance, and demonstrates capacity for basic ADLs with limited to moderate assistance; therapy notes anticipate discharge to a less restrictive setting with supports (Exhibit A, pp. 18–20, 28–29).

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4. Despite fluctuating mood and impaired judgment, evaluators found Petitioner retained decision-making capacity, was oriented, and scored 20/20 on the Extended Mini Mental Status assessment (Exhibit A, pp. 11–13, 22).
 5. On [REDACTED] 2025, Petitioner presented to University of Michigan Hospital and was admitted for “coordination of complex care”. Petitioner indicated that he required long term care in an extended care facility and hospice services because he “knows he is dying”. (Exhibit A, p 3; Testimony)
 6. On [REDACTED] 2025, the Washtenaw County Community Mental Health OBRA Team completed a Level II OBRA screening of Petitioner. (Exhibit A, pp 1-33). The OBRA screening included a psychological assessment, a medical history review and examination, a psychiatric assessment, and a sensory/motor development assessment. (*Id.*) The OBRA team concluded that Petitioner did not require a NF level of care:

ALL OBRA assessors agree that nursing facility placement is not the least restrictive setting for Mr. Rowe. It is noted that he is close to his functional baseline and would be at a high level of risk for long-term care placement. Given his age and overall level of functioning, placement in the community should continue to be explored by the hospital. Also, Mr. Rowe has resources available to him through WCCMH and ISK (Integrated Services of Kalamazoo) that have yet to be utilized. Therefore, No Nursing Facility-Specialized Mental Health Treatment will be the recommendation. (Exhibit A, pp 18-19; Testimony)

7. On November 10, 2025, after further review by the MDHHS OBRA Appeals Coordinator, the Department issued a determination that the Petitioner did not require the services of a nursing facility but did require specialized mental health/developmental disabilities services. (Exhibit A, p 34; Testimony)
8. On December 2, 2025, the Michigan Office of Administrative Hearings and Rules (MOAHR) received Petitioner’s request for hearing. (Exhibit A, pp 37-84).

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.

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Department policy related to preadmission screening was developed to comply with the federal Omnibus Budget Reconciliation Act of 1987 (OBRA). This Nursing Home Reform Act mandated a Preadmission Screening and Annual Resident Review (PASARR).

The intent of PASARR is to require “preadmission screening and annual review of the need for admitting or retaining individuals with mental illness (MI) or mental retardation (MR) in nursing facilities (NF) that are certified for Medicaid [and, if so, whether they needed specialized services for their MI or MR]. Also included was a requirement...that States institute an appeals system for individuals who may be transferred or discharged from...Medicaid NF’s or who wish to dispute a PASARR determination. **The purpose of the statutory provisions is to prevent the placement of individuals with MI or MR in a nursing facility unless their medical needs clearly indicate that they require the level of care provided by a nursing facility.**” (Federal Register, November 30, 1999, pages 56450-56451). (Bold emphasis added by ALJ).

Federal law requires that the state authorities conduct PASARR reviews. (See CFR 483.106, 483.128). The PASARR requirements in Michigan are found in the Medicaid Provider Manual, which provides, in pertinent part:

SECTION 8 – PASARR PROCESS

Pre-admission Screening/Annual Resident Review (PASARR) in Michigan is a two-level screening and evaluation process. The Level I screening and Level II evaluation procedures and forms are the same for Pre-admission Screening (PAS) and Annual Resident Review (ARR). The forms may be obtained from the MDHHS website.

The PASARR process must be completed:

- Prior to admission to a nursing facility;
- Promptly after a significant change in a resident’s physical or mental condition; and
- Not less than annually.

8.4 LEVEL II EVALUATION COMPLETION

Individuals who are identified at the Level I screening as having a mental illness or intellectual/developmental disability or a related condition, and who do not meet exemption criteria outlined previously, must be referred to the local CMHSP for a Level II evaluation.

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Level II evaluations are conducted by mental health professionals through the local CMHSP under contract with MDHHS. The evaluation involves an interview with the individual, review of medical records, and consultation with nursing facility and/or hospital staff. The mental health professional must conduct the Level II evaluation in accordance with the MDHHS OBRA Operations Manual. A copy of this manual may be requested from the MDHHS OBRA Office or the local CMHSP.

When a Level II Evaluation is required, it must be completed prior to nursing facility admission.

When a Level II evaluation is indicated for an Annual Resident Review (ARR), the nursing facility must notify the local CMHSP of the need for the Level II evaluation at least 30 days prior to the due date of the ARR by sending them a new DCH-3877 (Level I screening form). For example, if the initial Level II evaluation was completed on April 15, 2004, the ARR is due April 15, 2005, and the facility must notify the local CMHSP that a new Level II is due by March 15, 2005. The local CMHSP is responsible for timely completion of Level II evaluations and for providing facilities with written documentation of PASARR determinations in a timely manner.

Once completed, the CMHSP forwards all documentation of the Level II evaluation to MDHHS. Based on this documentation, MDHHS determines whether the individual requires nursing facility services or can be served in an alternate setting. MDHHS also determines whether specialized services or other mental health services are needed to treat the individual's mental illness, intellectual/developmental disability or a related condition.

The MDHHS decision regarding the need for nursing facility services and the need for specialized services is forwarded to the referring CMHSP. It is the responsibility of the CMHSP to explain the evaluation and determination to the individual and his legal representative. The CMHSP must provide a copy of the evaluation and the MDHHS determination letter to the individual and his legal representative and explain the appeal rights to the individual and their legal representative. This information must also be adapted to the cultural background, language, ethnic origin and means of communication of the individual being evaluated.

The local CMHSP notifies the attending physician, nursing facility, and discharging hospital of the results of the evaluation and the MDHHS determination in writing within five (5) days of the review. A copy of this notification must be retained in the individual's record. (Refer to the Distribution of PASARR Documentation subsection of this chapter for additional information.)

If the facility does not receive a written determination as follow-up to a verbal determination within 30 days of an admission, the facility must send a written reminder to the CMHSP and the MDHHS OBRA Office within 45 days of the admission. (Refer to the Directory Appendix for contact information.)

The nursing facility is responsible for verifying that required PAS and ARR processes are completed and documented in the resident's record. The nursing facility medical record must include the determinations of the level of care, the need for specialized services, the original DCH-3877 and DCH-3878 forms, and the Level II evaluation report and supporting documents.

8.7 APPEALS OF PASARR DETERMINATIONS

Individuals adversely affected by PASARR determinations may appeal the determination or another person may appeal the determination on their behalf. Examples may include the determination that the individual no longer requires specialized services when they have received those services in the past and wish to continue. An individual may decline nursing facility admission or specialized services without appeal.

Information regarding the MDHHS administrative hearing (appeal) process is available on the MDHHS website. (Refer to the Directory Appendix for website information.)

*Medicaid Provider Manual
Nursing Facility – Coverages Chapter
October 1, 2025, pp 17, 21-24*

Federal Law and Department policy require Pre-Admission Screening of applicants for admission to nursing facilities and Annual Resident Review. In Michigan PASARR is a two-step/level process that must be completed prior to admission to a nursing facility, promptly after a significant change in a resident's physical or mental condition, and not less than annually. If the Level I screen indicates an individual may be mentally ill, a Level II screen must be performed by the CMH to determine the need for nursing facility services, specialized services, and/or mental health services.

Here, the Department relies on the Level II evaluation's interdisciplinary findings, including: (1) Petitioner's functional abilities and therapy assessments support discharge to a community setting with supports; (2) his behavioral risk profile (aggression, property destruction, splitting, episodic homicidal ideation) exceeds what an NF can safely manage; and (3) specialized mental health services (case management, psychotherapy, peer supports, supported housing) are the appropriate modality, not NF services.

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The Department further notes that specific medical interventions sought by Petitioner (e.g., suprapubic catheter) lacked current clinical indication and that outpatient specialty follow-up was recommended instead.

Petitioner contends that NF admission is medically and psychiatrically necessary to ensure continuous supervision, medication control (to mitigate overdose risk), and immediate response to seizures or decompensation; he maintains that less-restrictive options are inadequate and that denial of NF placement increases his suicide risk. He points to recent hospitalizations, suicidal behavior, and functional limitations to support NF-level care.

Petitioner testified that the Level II evaluation contained numerous inaccuracies, including statements attributed to his grandmother and claims that he exhibited grandiose thinking, which he strongly denied. He asserted that he does not have Borderline Personality Disorder or bipolar disorder, citing prior neuropsychological evaluations and psychiatric hospital records that diagnosed him with ADHD and PTSD instead. Petitioner stated that clinicians at Integrated Services of Kalamazoo informed him he has autism, though they could not officially document the diagnosis. He described severe physical limitations, including chronic pain, hip dysplasia, arthritis, spinal issues, incontinence, and lupus, which he believes is supported by abnormal lab results. These conditions, combined with psychogenic non-epileptic seizures and memory deficits from multiple head injuries, make him fearful of living alone. He explained that he struggles with basic activities such as cooking, cleaning, dressing, and showering, and worries that a seizure could cause a fire if he were unsupervised.

Petitioner emphasized that his quality of life has declined significantly, leaving him largely homebound and dependent on a wheelchair. He expressed frustration with prior care, alleging neglect and abuse at a Detroit nursing home, where he was left in urine for over 12 hours and forced to perform tasks despite severe pain. He also criticized psychiatric facilities for overmedicating him and ignoring his extensive allergy list, which led to harmful side effects. Petitioner described a history of trauma, including sexual abuse and neglect, and explained that his PTSD and autism contribute to trust issues and difficulty managing emotions. He stated that he has been hyper-independent for years, which worsened his physical condition, and now requires substantial assistance to maintain safety and perform daily tasks.

Currently, Petitioner lives with family in an unstable environment and has been approved for an apartment in Kalamazoo County. He requested approval for Medicaid waiver services, such as the MiChoice or Heidi program, to provide in-home support if nursing facility placement remains denied. He stressed that without such assistance, he fears for his safety and ability to maintain housing, given his physical and mental health challenges. Petitioner concluded by expressing a desire for help to stabilize his life, noting that Integrated Services of Kalamazoo has been the most supportive agency he has worked with.

The evidence in this case establishes that the OBRA evaluation was thoroughly performed, and the review properly resulted in a determination that Petitioner does not require nursing facility level of services but does require specialized mental health/developmental disabilities services. The Department is required by law and policy to ensure that beneficiaries reside in the least restrictive setting possible, and the OBRA evaluation here accomplishes that goal. As indicated above, the OBRA team determined that Petitioner has resources available to him through local CMH agencies that have yet to be utilized.

The record demonstrates credible, consistent clinical consensus that Petitioner's needs are best met in a less restrictive, community-based setting with robust mental health supports and supervised housing, and that NF placement is contraindicated by the nature of his recent behaviors. Therapy and functional assessments do not establish NF-level medical necessity; rather, they anticipate community discharge with assistance. Moreover, Petitioner's stated suicide risk contingent on NF denial was specifically addressed by evaluators, who recommended safety planning and engagement in services prior to discharge, such as interventions available outside of NFs. The medical record does not substantiate a current need for invasive urologic devices; outpatient follow-up is the appropriate course.

While the undersigned sympathizes with what Petitioner has gone through in the past and his current circumstances, there are resources available to him in the community that would be more appropriate than placement in a NF. Once Petitioner engages those services, he can ask for assistance applying for other waiver services that might also meet his needs. Therefore, based on the information available at the time of the evaluation, the Department's decision was proper and should be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Petitioner did not require nursing facility services.

IT IS THEREFORE ORDERED that:

The Department's 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://rs.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:

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]
[REDACTED]

Via Electronic Mail:

Department Contact

BELINDA HAWKS
MDHHS-BPHASA
320 S WALNUT ST 5TH FL
LANSING, MI 48933
**MDHHS-BHDDA-HEARING-
NOTICES@MICHIGAN.GOV**

Agency/Department

Representative

KATHLEEN JOHNSON
MDHHS – BPHASA
320 S WALNUT ST 5TH FLOOR
LANSING, MI 48933
JOHNSONK56@MICHIGAN.GOV

Respondent

MDHHS – BPHASA
KRISTIN GUISE
320 S WALNUT ST 5TH FLOOR
LANSING, MI 48933
GUISEK@MICHIGAN.GOV