



Date Mailed: January 26, 2026
Docket No.: 25-044822
Case No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]
MI [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।

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

这是一份重要的法律文件。请让别人翻译文件。

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Date Mailed: January 26, 2026

Docket No.: 25-044822

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 January 21, 2026. Attorney Joel Bauer appeared on behalf of Petitioner. [REDACTED], Petitioner and [REDACTED], Petitioner's son, appeared as witnesses.

Ann Weir, Hearings Coordinator, appeared and testified on behalf of the Department's waiver agency, Region 9 Area Agency on Aging (Waiver Agency). Jennifer Ordway, Community Based Care Supervisor; Brian Zwolinski, RN; and Meghan Winterstein, Case Manager, Social Worker, appeared as witnesses for the Waiver Agency.

ISSUE

Did the Waiver Agency properly terminate Petitioner's services due to a violation of MI Choice Participant Responsibilities?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Michigan Department of Health and Human Services (MDHHS or Department) contracts with the Waiver Agency to provide MI Choice Waiver services to eligible beneficiaries (Exhibit A; Testimony).
2. The Waiver Agency must implement the MI Choice Waiver program in accordance with Michigan's waiver agreement, Department policy and its contract with the Department (Exhibit A; Testimony).
3. Petitioner is a Medicaid beneficiary who was receiving services through the Waiver Agency (Exhibit A, p 2; Testimony).
4. On November 20, 2025, Respondent's Supports Coordinator reported that the home health vendor was "ready to pull aides out" of Petitioner's home due to staff feeling uncomfortable because of the presence and behavior of Petitioner's adult son, [REDACTED], and his girlfriend, [REDACTED] (Exhibit A, pp. 2, 5-7; Testimony).

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5. During a November 20, 2025, call, Petitioner twice denied that [REDACTED] had been in her home recently (Exhibit A, pp. 2, 5-7; Testimony).
 6. On November 21, 2025, the vendor's aide reported that [REDACTED] was angry, used derogatory language about the Supports Coordinator, and stated he wanted to "strangle" her; the aide expressed fear and reported [REDACTED] continued outbursts (Exhibit A, pp. 2, 5-7; Testimony).
 7. Later on November 21, 2025, a State Trooper informed Respondent that [REDACTED] admitted he knew the police were present "because I threatened Meghan" (Exhibit A, pp. 2, 5-7; Testimony).
 8. On November 25, 2025, Petitioner called about lack of services. Respondent explained disenrollment due to safety concerns and noted Petitioner's lack of candor about [REDACTED] presence. Respondent offered assisted living placement and PACE as alternatives; Petitioner refused and stated she would "stay right here" (Exhibit A, pp. 2, 5-7; Testimony).
 9. On November 26, 2025, Respondent sent Petitioner a Notice of Adverse Benefit Determination terminating Petitioner from the Waiver program. The Notice referenced an "unsafe environment" and cited the MI Choice Waiver Participant Handbook requirement that participants must "[m]ake sure [their] home is safe and non-threatening for people who are helping you" (Exhibit A, pp. 2, 5-7; Testimony).
 10. The Waiver Agency provides to all participants in the program a copy of the MI Choice Waiver Participant Handbook, which outlines the participant's responsibilities within the Waiver Agency (Exhibit A, pp 8-30; Testimony).
 11. On December 11, 2025, the Michigan Office of Administrative Hearings and Rules received Petitioner's request for hearing (Exhibit A, p 4).

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 has been receiving 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.

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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)*

Medicaid policy in Michigan is contained in the Medicaid Provider Manual (MPM). With regard to the MI Choice Waiver program, the MPM 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 that supports required long-term care (as opposed to rehabilitative or limited term stay) provided in a nursing facility. The waiver is approved by the Centers for Medicare & Medicaid Services (CMS) under section 1915(c) and section 1915(b) 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 waiver.

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 plan of service, 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 bi-lingual staff or through the use of interpreters.

SECTION 2 – ELIGIBILITY

The MI Choice program is available to persons 18 years of age or older who meet each of three eligibility criteria:

- An applicant must establish their financial eligibility for Medicaid services as described in the Financial Eligibility subsection of this chapter.
- 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 in order 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.

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

The Waiver Agency provides to all participants in the program a copy of the MI Choice Waiver Participant Handbook. Page 8 of the handbook is titled, “Your Responsibilities” and indicates, among other things that participants are required to:

- Choose the services and supports included in your plan, help develop that plan, and know and follow what is in that plan.
- Tell your supports coordinator about changes in what you need.

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- Tell your supports coordinator about other services and supports you may have.
 - Tell your supports coordinator about any other insurance you have.
 - Know the information in this handbook.
 - Ask questions or let us know when you do not understand something.
 - Be available so that you can receive your services.
 - Let us know as soon as possible when you will not be available to receive a service.
 - Keep valuable things such as keepsakes, money, credit cards, jewelry, and guns or other weapons in a safe place.
 - Tell your supports coordinator when you are concerned about your workers.
 - Make sure your home is safe and non-threatening for people who are helping you. This includes:
 - Being respectful to workers who come into your home.
 - Not verbally or physically abusing the people trying to help you.
 - Not using profane or offensive language toward the people who are trying to help you.
 - Keeping pets outside or otherwise secure so that your worker can give you the services and supports you need.
 - Being a responsible gun or weapon owner. This means that all weapons will not pose a threat, intended or unintended, real or implied, to the people helping you.
 - Making sure there are no illegal or illicit activities happening in your home. Some of the people who come to your home will have to report these things to Adult Protective Services.

(Exhibit A, p 15)

Respondent's representative indicated that Petitioner's MI Choice Waiver services were terminated after her son, [REDACTED], made threats of violence against a staff member. Respondent advised Petitioner that services could not continue while [REDACTED] remained

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in the home and offered alternatives such as assisted living and PACE, which Petitioner declined.

Respondent's Supports Coordinator testified that she feared for her safety because [REDACTED] knew where she lived and she had young children at home. She explained that [REDACTED] threats were reported by the aide, and although she did not hear them directly, [REDACTED] admitted to police that he made them.

Petitioner testified that [REDACTED] was not living with her full-time but visited frequently due to personal struggles following a divorce. She denied hearing [REDACTED] make threats and described him as generally helpful to staff, though she acknowledged he had outbursts. Petitioner admitted she initially lied about [REDACTED] being present but later regretted it. She expressed appreciation for the agency's staff and stated she needs services, explaining that she intended to ask [REDACTED] to leave during the incident but could not. She said [REDACTED] has since changed and apologized.

Petitioner asserted that she is physically disabled and needs services to remain safely at home; she asked the agency to reconsider the termination and continue in-home supports. Petitioner rejected alternatives such as assisted living and PACE.

Petitioner bears the burden of proving, by a preponderance of the evidence that the Waiver Agency erred in terminating her services. Based on the evidence presented, Petitioner has failed to meet that burden. Here, the record establishes that Respondent's determination was driven by credible safety concerns arising from [REDACTED] stated threat to "strangle" the Supports Coordinator, corroborated by the vendor's aide and acknowledged to law enforcement by [REDACTED] himself. The MI Choice Waiver Participant Handbook requires participants to ensure a safe, non-threatening home for care personnel, and Petitioner had acknowledged receipt of the handbook.

Moreover, Respondent explored and offered reasonable alternatives - assisted living placement and PACE - designed to meet Petitioner's care needs while protecting staff; Petitioner declined those options. Given the ongoing uncertainty about [REDACTED] presence and Petitioner's earlier denial about [REDACTED] presence despite contrary reports, Respondent's conclusion that in-home services could not safely continue was reasonable on this record.

Under 42 C.F.R. § 440.230(d), a Medicaid agency may place appropriate limits on a service based on criteria such as medical necessity or utilization control procedures and, where the conditions for safe delivery of services are not met, limiting or terminating in-home services may be appropriate. The MI Choice Waiver Participant Handbook requires participants to make sure their home is safe and non-threatening for people who are helping them. Credible, contemporaneous notes and law-enforcement corroboration demonstrate that the home environment was unsafe for agency staff due to Danny's behavior and explicit threat, and that Petitioner declined reasonable alternatives that would have allowed services to continue in a safer setting.

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Therefore, Respondent's decision to disenroll Petitioner from MI Choice Waiver in-home services was consistent with federal authority, program standards, and local policy requiring a safe environment for service delivery. The decision was supported by substantial evidence in the record and should be affirmed.

If Petitioner can ensure a safe home environment in the future, the parties can always consider reenrollment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MI Choice Waiver agency properly disenrolled Petitioner from the program due to violations of MI Choice Participant Responsibilities and failing to provide a safe working environment.

IT IS THEREFORE ORDERED that:

The Waiver Agency'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.

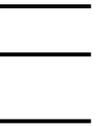
Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation 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 Electronic Mail:

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