BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

M.S.,	:	
Petitioner,	:	
	:	Docket No.:
v.	:	OSAH-DCH-ICWP-*******-60-Malihi
	:	
DEPARTMENT OF COMMUNITY HEALTH,	:	
Respondent.	:	

Barbara Monica Hood
For Petitioner

Yvonne Hawks, Esq.
For Respondent

INITIAL DECISION

I. Introduction

Petitioner challenges the decision of Respondent to deny her request for a service under the Independent Care Waiver Program. For reasons indicated herein, Respondent's action is **REVERSED**.

II. Findings of Fact

Introduction to ICWP

1. The Independent Care Waiver Program (ICWP) is a state-administered program that operates under a home and community-based services waiver granted by the Center for Medicare and Medicaid Services (CMS) through the authority of § 1915(c) of the Social Security Act. The waiver allows the state to use funds allocated to the state plan to "purchase services for adult individuals with physical disabilities or traumatic brain injuries" so that those individuals may live in their own homes and communities rather than in a nursing facility. The home and community-based services covered by ICWP include personal support services, enhanced case management, and environmental modifications. *Respondent's Exhibits 1 and 2*; *Testimony of Barbara Means-Cheeley*.

2. DCH is the state agency responsible for administration of ICWP and issues policy in *Part II Policies and Procedures for Independent Care Waiver Services* (hereinafter "ICWP Manual"). DCH has contracted with the Georgia Medical Care Foundation, a medical management organization, to assist with the administration of the program. Part of GMCF's duties includes "implement[ing] the selection process for those individuals seeking to enroll in the program based upon criteria established by [DCH]." *Respondent Exhibits 1 and 2*; *Testimony of Barbara Means-Cheeley*.

3. During an in-person interview and assessment session, a GMCF nurse will complete an ICWP Participant Assessment Form (PAF) with the member. The purpose of the PAF is to "assist in determining the number of personal care hours [the] member may require." Thereafter, GMCF will develop an Initial Plan of Care to "document the amount and type of services needed" and "ensure that the applicant has a Plan of Care that is appropriate to his or her needs and can be implemented within the allocated budget amount . . . ." Once they are approved to receive services through ICWP, members develop an Individual Plan of Care with a case manager. This Individual Plan of Care "includes the selected providers, specific schedule for service delivery of the services approved on the Initial Plan of Care, other goals and objectives identified, and discharge plans." This Individual Plan of Care is then sent to GMCF. *Respondent Exhibits 1 and 2*; *Testimony of Barbara Means-Cheeley*.

4. After an individual is approved to participate in ICWP, their Individual Plan of Care must be reviewed and signed by the case manager. The Individual Plan of Care must be updated "quarterly and every twelve months." The member's case manager "is responsible for the oversight of the Plan of Care . . . [and] assures that [it] is responsive to unmet needs." *Respondent Exhibits 1 and 2*; *Testimony of Barbara Means-Cheeley*.

5. Individuals participating in ICWP are subject to annual reassessments. During these reassessments, the individual and his or her case manager will complete a PAF, which is then submitted to GMCF. The purposes of the reassessment are to ensure that the individual remains eligible for the program and to ascertain whether the individual's current services are adequate to address his or her needs. *Respondent Exhibits 1 and 2*; *Testimony of Barbara Means-Cheeley*.

Petitioner's Participation in ICWP

6. Petitioner is a twenty-six-year-old female with a primary diagnosis of spinal muscular atrophy (SMA), a neuromuscular disease characterized by progressively worsening muscular degeneration and weakness. SMA typically has a more pronounced effect on muscles in the extremities, impairing locomotion, ambulation, and motor skills. *Petitioner's Exhibit 4; Testimony of K.S.*

7. In Petitioner's case, SMA has rendered her non-ambulatory and she requires a powered wheelchair to get around. Her upper body has been severely weakened by her disease and she also suffers from muscle contractures in her arms. Although she can perform tasks requiring minimal manual dexterity, such as signing her name and operating the touchpad on a cell phone, she is unable to perform tasks that require reaching, grasping, or lifting. SMA has also adversely affected her ability to ingest foods, and she is G-tube dependent. *Respondent's Exhibits 4, 5, and 6; Petitioner's Exhibit 4; Testimony of K.S.; Testimony of K.B.; Testimony of N.R.; Testimony of Petitioner*.

8. Petitioner is a participant in ICWP and currently receives personal support services through the program. A case manager employed by Life Goes On Case Management Services assists Petitioner in obtaining services through ICWP and is responsible for performing annual

reassessments and renewing Petitioner's Individual Care Plan. *Respondent's Exhibits 4, 5, and 6; Testimony of K.B.; Testimony of N.R.*

9. Ms. Tracy Howard, a case manager with Life Goes On, completed an Individual Plan of Care renewal with Petitioner on or about July 25, 2013 (hereinafter "the July Renewal"). Neither Petitioner nor Ms. Howard indicated on the July Renewal that Petitioner's services were inadequate. The second to last page of the renewal form provides fields under the heading of "Home Modifications" wherein the participant or case manager may indicate that the participant is in need of physical modifications to her home. In the space provided next to the field labeled "Automatic Door Opener," Ms. Howard typed "Doesn't need." *Respondent's Exhibit 6*; *Testimony of Xan Gatling; Testimony of N.R.*

10. A personal care aide is available to assist Petitioner for approximately eight hours a day Monday through Sunday. This personal care aide visits Petitioner's residence from 8:00 a.m. to 2:00 p.m. and 4:00 p.m. to 8:00 p.m. every day and is available to assist her in performing various activities of daily living, such as G-tube feedings, bathing, transfer, toileting, and dressing. Petitioner also receives informal assistance from her parents, particularly during times when the personal care aide is unavailable, such as during overnight hours. *Respondent's Exhibits 5 and 6; Testimony of K.B.; Testimony of N.R.; Testimony of Petitioner*.

11. Petitioner is currently enrolled in a graduate program at the Georgia Institute of Technology (Georgia Tech), where she is also employed as a program director. She lives with her parents, O.S. and S.S., in a private residence located near the Georgia Tech campus. *Petitioner's Exhibit 4*; *Testimony of K.B.; Testimony of Petitioner*; *Testimony of K.S.*

12. During ordinary work hours, a personal care aide drives Petitioner to campus in a handicap-accessible van. However, the variable nature of Petitioner's class and work schedules requires that she be on campus at irregular intervals throughout the day, often when no one is available to drive her. Although her home is close enough to campus to allow her to take her power wheelchair to class or work, she must often leave campus and return to her home at odd hours, when no one is available to open the front door for her and assist her in getting into the house. Because Petitioner's condition has left her upper extremities very weak, she cannot open the front door, which in its current configuration must be manually unlocked and pulled ajar. As a result, she is sometimes forced to wait outside for someone to return home and help her inside. *Petitioner's Exhibit 4; Testimony of K.B.; Testimony of Petitioner*.

Petitioner's Request for Services

13. On or about October 25, 2013, Ms. N.R., Petitioner's current case manager, contacted Georgia Medical Care Foundation with a request to obtain modifications to Petitioner's home as a covered service under ICWP. The requested home modifications included installation of a 42" wide wheelchair ramp leading from the sidewalk to the front porch of the home, a "roll-in" tile shower with grab bars, and a new front entry door with remote-controlled "Open Sesame" keyless door entry system and "Intelligent" deadbolt. Ms. R. included two bids for the proposed modifications from ICWP-enrolled providers, photographs of the areas of Petitioner's home that were to be modified, and her own written statement in which she averred that Petitioner was in

need of the requested home modifications. *Respondent Exhibit 4; Testimony of Xan Gatling; Testimony of N.R.*

14. The Open Sesame door entry system works similar to a garage door opener; it enables the user to remotely open a door by pressing a button on a handheld controller. An Intelligent deadbolt may be remotely locked or unlocked by entering commands on a smartphone, such as an iPhone. Ms. R. and Petitioner requested both the Open Sesame and the Intelligent deadbolt because such devices would permit Petitioner to unlock and lock the door to her home and enter and exit her home, tasks that she is currently incapable of performing without assistance from others. *Testimony of N.R.; Testimony of Petitioner; Respondent's Exhibits 4 and 9; Petitioner Exhibits 1 and 4*.

15. Ms. Xan Gatling, a Review Nurse with the Georgia Medical Care Foundation, processed Petitioner's request for home modifications. Ms. Gatling concluded in her review that the proposed installation of the ramp and the modifications to Petitioner's shower were "reasonable." However, she determined that the proposed modifications to front door of the residence were not "medically necessary" and, after conferring with Ms. Barbara Means-Cheeley, a Program Specialist with DCH, decided to deny the requested modification. Ms. Gatling based her determination upon the following findings, which she expressed in a letter to Petitioner dated January 31, 2014:

- According to the definition for "medically necessary," in *Part I Policies and Procedures for Medicaid/Peachcare for Kids Manual*, "medical necessity or medically necessary and appropriate means medical services or equipment based upon generally accepted medical practices in light of conditions at the time of treatment which is (a) appropriate and consistent with the diagnosis of the treating physician and the omission of which could adversely affect the eligible member's medical condition, (b) compatible with the standards of acceptable medical practice in the United States, (c) provided in a safe, appropriate, and cost effective setting given the nature of the diagnosis and the severity of the symptoms, (d) not provided solely for the convenience of the member or the convenience of the health care provider or hospital, (e) not primarily custodial care unless custodial care is a covered service or benefit under the member's evidence of coverage and, (f) there must be no other effective and more conservative or substantially less costly treatment, service and setting available."
- [According to DCH's Independent Care Waiver Program Manual] § 902.5 Environmental Modification . . . 'adaptation[s] or improvements to the home which are not of direct medical or remedial benefit to the member are not covered. (e.g., carpeting, roof repair, air conditioning controls, etc[.]).'
- [The ICWP Community Carepath] submitted . . . with the yearly renewal plan on 8/4/2013 . . . indicates specifically "does not need" for automatic door opener.
- In your initial assessment by me on 1/20/2010, I assessed that you had no movement in the lower extremities. However, you had gross motor movement to the upper extremities

and were able to manipulate your power wheelchair. Likewise, you had some fine motor skills abilities and were able to sign your name, brush your teeth, and apply make-up.

- Your case manager has submitted yearly care plan narratives which indicate no decline in your functioning or abilities. These forms were submitted on 8/4/2011, 8/4/2012 and 8/4/2013.

Respondent's Exhibit 3.

16. On or about February 16, 2014, Petitioner requested an administrative hearing to dispute the decision to deny her request for services. *Respondent's Exhibit 7*.

17. On February 16, 2014, Petitioner and her case manager amended her Individual Care Plan. In this amendment, Petitioner's case manager indicated that Petitioner's mobility was incomplete, and that her ADLs were being "interrupted" because she could not open or unlock the front or back door by herself. *Petitioner's Exhibit 3; Testimony of N.R.*

18. At the hearing of this matter, Ms. Gatling testified that, while GMCF has recently started approving members' requests for keyless entry systems, it has never approved an Open Sesame entry system or Intelligent deadbolt. Ms. Gatling explained that GMCF approves keyless door locks that require the user to type in a code where they are necessary to ensure that the member's personal care aide can enter the home in the event of an emergency. *Testimony of Xan Gatling*.

19. Respondent submitted into evidence photographs of types of keyless entry systems that it would potentially approve for Petitioner. The alternative examples shown in the photographs are all "touchpad" keyless entry options, with the exception of one system, which, like the Intelligent deadbolt system proffered by Petitioner, may be unlocked using a smartphone. While all of Respondent's proposed alternatives enable the user to lock or unlock a door without using a key, none of them possess the Open Sesame's feature of opening the door and holding it ajar for the user. *Respondent's Exhibit 9; Testimony of Xan Gatling*.

20. Ms. Gatling elaborated in her testimony that her decision to deny the requested services was based upon: (1) her conclusion that the requested service did not fit the definition of "medical necessity" expressed in the Medicaid Manual; (2) the absence of indications in the July Renewal that Petitioner needed the service; (3) the ICWP manual's prohibition of environmental modifications that are not "of direct medical or remedial benefit"; and (4) her own experience of Petitioner's condition, which was not indicated to have degenerated in subsequent assessments. *Testimony of Xan Gatling*.

21. Dr. K.S., MD, Petitioner's neurologist, testified that Petitioner required the requested services in order to independently access her home and ensure her security. Dr. S. opined that Respondent's alternative keyless entry options were inadequate because, while they enabled Petitioner to unlock the door remotely, they still required her to perform tasks that she was increasingly unable to do due to her illness, such as reaching, grasping, and pulling. Dr. S. also contended that Petitioner's current inability to independently unlock and access her home posed the risk that she could be exposed to unfavorable weather conditions and develop a respiratory illness. Respiratory illnesses pose a greater risk to individuals with SMA, explained Dr. S.,

because they are less able to expel secretions, increasing the likelihood that they will require inpatient care. *Petitioner Exhibit 4*; *Testimony of K.S.*

22. In her testimony, Dr. K.B., Petitioner's personal care aide, opined that, based upon her experience with Petitioner's care, the keyless entry alternatives proposed by Respondent were inadequate to ensure that Petitioner could access her home. Dr. B. testified that Petitioner is incapable of opening doors independently and that the contractures in her extremities prevent her from reaching beyond her wheelchair to press the numbers on a keypad. Dr. B. contended that Petitioner required a keyless entry option that both unlocked and opened her front door. *Testimony of K.B.*

23. Petitioner testified that she required the Open Sesame entry system and the Intelligent deadbolt in order to enter and leave when informal or formal caregivers are unavailable to assist her, which was often the case when she returned home from campus. According to Petitioner, she often had to wait for an hour or longer for a caregiver to arrive to her home and assist her inside. She explained that her need for an adequate entry system would only increase in the future because her parents were in the process of acquiring a new home, and would be moving out of the residence in a matter of months. *Testimony of Petitioner*.

24. Respondent submitted that its denial of Petitioner's request for the Open Sesame and Intelligent deadbolt systems was correct because (1) the service did not meet the requirements of an environmental modification and thus could not be covered under ICWP and (2) Petitioner's need for the services had not been included in her Individual Plan of Care.

III. Conclusions of Law

Overview of Medicaid Waiver Program

1. In 1965, the Medicaid program was created "'for the purpose of providing federal financial assistance to States that choose to reimburse certain costs of medical treatment for needy persons.'" Skandalis v. Rowe, 14 F.3d 173, 175 (2nd Cir. 1994) (quoting Harris v. McRae, 448 U.S. 297, 301 (1980). See Social Security Act, 42 U.S.C. § 1396 et seq. If a state elects to participate in the Medicaid program, it must obtain approval from the Secretary of the Department of Health and Human Services ("Secretary") of a plan specifying the programs and services it will offer using Medicaid funds. See 42 U.S.C. § 1396a. See also Susan J. v. Riley, 254 F.R.D. 439, 445 (M.D. Ala. 2008). Certain programs and services are mandatory under the Social Security Act ("the Act"), such as inpatient hospital services and laboratory and X-ray services, and other services may be funded through Medicaid "at the option of the State." 42 U.S.C. § 1396a(a)(10)(A)(i) and (ii); 42 U.S.C. § 1396d(a)(1), (3) & (4). See Skandalis, 14 F.3d at 175; Susan J., 254 F.R.D. at 446.

2. Home and community-based services ("HCBS") are optional services and may be reimbursed under a state plan if the state applies for and obtains a "waiver" from the Secretary to provide such services under section 1915(c) of the Social Security Act [42. U.S.C. § 1396n(c)].[1] Section

[1] Section 1915(c) of the Social Security Act reads, in pertinent part:

1915(c) of the Social Security Act permits States "to offer, under a waiver of statutory requirements, an array of home and community-based services that an individual needs to avoid institutionalization." Social Security Act § 1915(c), 42 U.S.C. § 1396n(c) (2012); 42 C.F.R. 441.300.[2]

3. In order to provide HCBS through a waiver, states must "submit a proposal prepared in accordance with regulations promulgated by the Secretary." Skandalis, 14 F.3d at 176. For example, federal regulations require that a state's application for a waiver include an assurance that services will be furnished only to recipients who, in the absence of such services, would require Medicaid-covered care in a hospital, nursing facility or an intermediate care facility for the mentally retarded. 42 C.F.R. § 441.301(b)(1)(iii). In addition, federal regulations require that each waiver application "be limited to one of the following target groups or any subgroup thereof that the State may define:"

(i) Aged or disabled, or both.
(ii) Mentally retarded or developmentally disabled, or both.
(iii) Mentally ill.

42 C.F.R. § 441.301(b)(6).

4. Once the State's Waiver application is approved by CMS, it is treated as a binding contract between the State and the Federal government. Susan J, 616 F. Supp. 2d at 1240 ("Once approved, the Waiver application becomes the controlling document."). The criteria expressed in the approved Waiver application are analogous to the provisions of a contract and set forth parameters that are controlling in the states' administration of the waiver.

5. Subject to approval from CMS, a state may elect to offer the following home and community-based services through its waiver:

(1) Case management services,
(2) Homemaker services,
(3) Home health aide services,
(4) Personal care services,
(5) Adult day health services,
(6) Habilitation services,
(7) Respite care services,

> The Secretary may by waiver provide that a State plan approved under this title may include as "medical assistance" under such plan payment for part or all of the cost of home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan.

42 U.S.C. § 1396n(c)(1) (2012).

[2] The statutory requirements that the Secretary may waive include uniform requirements relating to statewideness, comparability, and income and resource limits. See Social Security Act § 1915(c)(3), 42 U.S.C. § 1396n(c)(3).

(8) Day treatment or other partial hospitalization services, psychosocial rehabilitation services and clinic services . . . for individuals with chronic mental illness . . ., [and]

(9) Other services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization.

42 C.F.R. § 440.180(b)(1)-(9).

6. States have discretion in choosing what home and community-based services will be offered through their Medicaid waiver programs and who the intended target group for the waiver services will be. See generally Susan J., 616 F. Supp. at 1240. Federal regulations describe the purpose of the Medicaid waiver program as follows:

> 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.

42 C.F.R. § 430.25(b).

The Independent Care Waiver Program

7. Georgia provides HCBS to individuals with significant physical disabilities and/or traumatic brain injuries through the Independent Care Waiver Program, a waiver approved by CMS under the 1915(c) HCBS Waiver Program. ICWP allows for the use of Medicaid funds to purchase home and community-based services designed to assist eligible members to "live in their own homes or in the community instead of an institutional setting." *Part II Policies and Procedures for Independent Care Waiver Services* [hereinafter ICWP MANUAL] § 601. The covered services that may be reimbursed through ICWP (ICWP services) are expressed in the waiver application approved by CMS on April 1, 2011 (hereinafter "the HCBS Waiver"). See generally CTR. FOR MEDICARE AND MEDICAID SERVS. & GA. DEP'T OF CMTY. HEALTH, Application for a § 1915(c) Home and Community-Based Services Waiver (April 1, 2011) [hereinafter [HCBS WAIVER]. The home and community-based services covered under ICWP are listed in Appendix C of the Waiver application, and include, for example, personal support services, enhanced case management, and environmental modifications. HCBS WAIVER 39-117 (App'x C).

8. DCH is the state agency responsible for the administration and operation of ICWP. DCH has contracted with GMCF, a physician-sponsored medical management organization "to conduct assessments of all waiver applicants, to determine hospital or nursing facility level of care, manage the wait list, and review prior authorization for services." HCBS WAIVER.

Environmental Modifications

9. In the application for a §1915(c) Home and Community-Based Services Waiver approved by CMS, Georgia requested the authority to provide "Environmental Modifications" as an additional home and community-based service offered through ICWP.[3] Environmental modifications are defined as follows in Appendix C of the Waiver application:

> Providers of environmental modifications services provide physical adaptations to the private home specified in the Individual Plan of Care, *which are necessary to ensure the health, welfare and safety of the member, or which enable the member to function with greater independence in the home and without which, the waiver participant would be at risk of institutionalization.*

HCBS WAIVER 53-55 (App'x C) (emphasis added).

10. Accordingly, whether the modifications requested by Petitioner and her case manager qualify as covered services under ICWP is dependent upon whether they are necessary to ensure Petitioner's health, welfare, and safety or whether they enable her to function with greater independence in her home, and without them she would be at risk of institutionalization. In the present case, Petitioner demonstrated by a preponderance of the evidence that the modifications are covered services under ICWP and that Respondent's denial of the request for modifications was in error.

11. In reviewing Petitioner's request, Respondent erroneously imposed the additional requirement that the requested modifications meet the definition of "medical necessity." The requirement that environmental modifications comport with the definition of medical necessity is not expressed in the HCBS Waiver or ICWP Manual definition of the covered service. See HCBS Waiver. Similarly, the requirement that the requested modifications be of "direct medical or remedial benefit to the member" is not expressed in the HCBS Waiver definition of environmental modifications. Moreover, Petitioner introduced undisputed testimony of Dr. K.S. and Dr. K.B. that the requested modifications are medically necessary even as that phrase is defined in the Medicaid Manual. Accordingly, Respondent's decision to deny the requested services was incorrect.

12. Petitioner introduced evidence that the requested modifications are necessary for her continued health, safety, and welfare. Petitioner's condition renders her incapable of independently accessing or securing her home. Professionals familiar with Petitioner's needs, including her neurologist, her personal care aide, and her case manager, testified that Petitioner, in her present condition, could not lean, reach, grasp, lift, or pull. The requested modifications would bypass these limitations, and permit Petitioner to independently access and secure her home, thus ensuring her health, safety, and welfare.

[3] CMS approved this service pursuant to 42 C.F.R. § 440.180(b)(9), which allows for the inclusion of "[o]ther services requested by the agency and approved by CMS as cost effective and necessary to avoid institutionalization" as home and community-based services. 42 C.F.R. § 440.180(b)(9).

13. The conclusions reached by professionals familiar with Petitioner's current level of care are more persuasive than those reached by Ms. Gatling, who last assessed Petitioner's needs in-person when she developed Petitioner's Initial Plan of Care in 2010. Any conclusions reached concerning Petitioner's physical capabilities in 2010 are particularly unpersuasive considering that Petitioner suffers from a degenerative disease.

14. The alternatives offered by Respondent do not adequately ensure Petitioner's health, safety, and welfare. While the alternatives proffered by Respondent may enable Petitioner to lock or unlock her home, they provide virtually no assistance to her in accessing her home. With the proposed alternatives installed, Petitioner would still be required to lean, reach, grasp, and pull—functions that her providers persuasively insist that she is incapable of performing—in order to access her home.

15. Additionally, allowing the requested services to be performed is consistent with the purposes of ICWP "to provide quality services, consistent with the needs of the individual member, which are effective in developing, improving and maintaining the member's independence to live actively, safely and successfully in the community [and] to provide cost effective services to assist individuals in living as independently as possible in the home and community." ICWP MANUAL § 601; See HCBS WAIVER 3 (the goal of ICWP is "[t]o provide quality services, consistent with the needs of the . . . member, which are effective in improving/maintaining the member's ability to live safely in the community as long as possible"). The requested services will unquestionably assist Petitioner in living independently in the community insofar as she will no longer be reliant on her caregivers in order to access her home.

16. The fact that Petitioner's need for the requested environmental modifications was not specifically indicated in the July Renewal of her Individual Plan of Care is not dispositive. The purpose of the Individual Plan of Care is to document the member's needs. See, e.g., 42 C.F.R. 441.301(c)(2) ("The person-centered service plan must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need . . ."); HCBS WAIVER 119 ("Changes in the waiver participant's care needs or circumstances are expected to result in changes in the plan of care . . ."); id. ("The [case manager] assures that he plan of care is responsive to unmet needs . . ."); id. at 121 ("The [Care Plan] was designed for monitoring purposes and includes goals for each need identified with a mechanism for tracking outcomes . . . . Case managers also monitor waiver participants for new health or safety issues and either adjust care plans accordingly or perform a full reassessment as the circumstance warrants."). Accordingly, where, as here, the member and the member's case manager have definitively established a need and expressed such a need to Respondent, the failure to document the need in an regularly-scheduled Plan of Care Renewal will not foreclose the member from obtaining a service to address that need. For this reason, Respondent approved Petitioner's request for modifications that allowed her to install a ramp to her front door and a roll-in shower, though they had not been included in the Individual Plan of Care Renewal.

17. For the foregoing reasons, Respondent incorrectly denied Petitioner's request for services dated October 25, 2013.

IV. Decision

IT IS HEREBY ORDERED that Respondent's denial of Petitioner's request for services is **REVERSED**.

May 13, 2014.

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MICHAEL MALIHI, Judge