

Bulletin Number: MSA 18-48

Distribution: Nursing Facilities, County Medical Care Facilities, MI Choice Waiver Agencies, Program of All-Inclusive Care for the Elderly (PACE) Organizations, Integrated Care Organizations

Issued: November 30, 2018

Subject: Nursing Facility Level of Care Determination (LOCD) Medicaid Provider Manual Chapter and Process Improvements

Effective: January 1, 2019

Programs Affected: Medicaid, MI Choice Waiver, PACE, MI Health Link Home and Community Based Services (HCBS) Waiver Program

The Michigan Department of Health and Human Services (MDHHS) is required to use a comparable level of care assessment across all programs that provide a nursing facility level of care. In Michigan Medicaid, that includes nursing facilities, the MI Choice waiver program, the Program of All-Inclusive Care for the Elderly (PACE), and the MI Health Link waiver program. The Nursing Facility Level of Care Determination (LOCD) is the instrument used by MDHHS to determine whether an individual requires this level of services.

Currently, LOCD policy exists primarily in the Nursing Facility Coverages Chapter of the Medicaid Provider Manual, and separate program chapters include supplemental information. MDHHS has undertaken an extensive review of the LOCD process. This review process included ongoing stakeholder involvement and resulted in many significant changes. Some of these changes are defined in Bulletin MSA 18-39. This bulletin completes the transformation of the LOCD process and consolidates all LOCD policy into a single, consistent policy chapter in the Medicaid Provider Manual. It is designed to replace and supersede any existing policies and processes in the Medicaid Provider Manual that relate to the LOCD, except where noted.

This bulletin is intended to provide a consistent application of the LOCD across all programs that require that determination.

There are many significant policy changes incorporated into the new LOCD chapter. Each is designed to improve the effectiveness of the assessment for beneficiaries and providers. This policy includes the following the key changes:

- Individuals seeking long-term services and supports are not required to be Medicaid eligible before professionals can conduct the LOCD and enter it into the LOCD system, giving providers more flexibility in when they can administer the LOCD.
- All LOCDs must be entered in the Community Health Automated Medicaid Processing System (CHAMPS), including those that determine an individual to be ineligible. This will allow for a review of the accuracy of negative LOCDs.
- The LOCD is associated to the individual rather than the provider. A current LOCD can be transferred with the individual to a new provider or program.
- All LOCDs will potentially have a 365-day End Date from the date they were conducted regardless of program. A subsequent face-to-face LOCD must be conducted before the End Date or if there is a significant change of condition.
- Initial face-to-face LOCDs must be conducted before the provider is eligible for Medicaid reimbursement for the individual. The LOCD must be conducted according to policy prior to or the day of an individual's admission to a nursing facility or enrollment in MI Choice, PACE, or MI Health Link HCBS waiver programs. Establishing eligibility for services is a fundamental federal requirement for Medicaid reimbursement. The related change in this policy is the elimination of the CHAMPS operation that reimbursed providers for up to 14 days prior to conducting the LOCD. This policy requires providers to conduct the LOCD within the first day of services to receive Medicaid reimbursement, unless there are program-specific requirements for establishing LOCD eligibility prior to enrollment. Providers continue to have up to 14 days after the conducted date to enter the LOCD in CHAMPS.
- A licensed and qualified professional must conduct the initial LOCD for an individual through a face-to-face meeting. However, when program assessment data are available, MDHHS will apply an LOCD algorithm to the individual's most recent program assessment (MDS or iHC) to passively verify LOCD eligibility. When MDHHS confirms through passive redetermination that the individual continues to meet LOCD criteria, a new LOCD will be generated with a 365-day End Date.

- When the passive redetermination process cannot confirm that the individual continues to meet LOCD criteria, the provider will receive notification in CHAMPS to perform a face-to-face LOCD. The provider will have up to 45 days to conduct a new face-to-face LOCD.
- The review process is changing to an immediate review of a random sample of initial LOCDs. The review will determine if the LOCD was conducted according to policy and if it produced the correct determination. Review decisions will be made in a matter of days, avoiding the risks of recoupment from an extended period of services to an individual that does not meet the LOCD criteria. This review will include eligible and ineligible LOCDs.
- The scope of Exception and Immediate Reviews is now called an LOCD Secondary Review and is expanded to include Doors 1-8. In addition, the individual has more time to request a Secondary Review. Providers and individuals will continue to request the review by phone; however, the review will no longer be telephonic. The provider may upload supporting documentation through CHAMPS for LOCD Secondary Review consideration.
- This policy emphasizes the importance of the individual's right to choose programs through the Freedom of Choice process. Providers are required to give individuals and their representatives sufficient information about each available program option and do this in a way that is effective for the individual.

Many of the provisions set forth in this chapter are contingent upon the establishment of related functionality within CHAMPS and the Data Warehouse. Those provisions will become effective as updates to CHAMPS are made. Such provisions are noted in the attached chapter.

Manual Maintenance

Retain this bulletin until the information is incorporated into the Medicaid Provider Manual.

Questions

Any questions regarding this bulletin should be directed to Provider Inquiry, Department of Health and Human Services, P.O. Box 30731, Lansing, Michigan 48909-8231, or e-mail at ProviderSupport@michigan.gov. When you submit an e-mail, be sure to include your name, affiliation, NPI number, and phone number so you may be contacted if necessary. Providers may phone toll-free 1-800-292-2550.

Approved



Kathy Stiffler, Acting Director
Medical Services Administration



NURSING FACILITY LEVEL OF CARE DETERMINATION

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SECTION 1 – GENERAL INFORMATION

The Michigan Department of Health and Human Services (MDHHS) is required to assess all individuals seeking Medicaid-funded long-term services and supports (LTSS) to determine their functional need for those services. The determination is an essential component of eligibility for services in nursing facilities, the MI Choice Waiver Program, the Program of All-Inclusive Care for the Elderly (PACE), and the MI Health Link HCBS Waiver Program. Policies contained herein apply equally and consistently to each of these programs except as noted.

MDHHS uses a standard assessment and process for all programs and services that require an individual meet the nursing facility level of care. Programs may not use any other assessment in place of the Level of Care Determination (LOCD) tool for this determination. The LOCD assures a consistent and reliable process for determining that individuals meet the functional eligibility requirements.

Providers may access the LOCD online in the Community Health Automated Medicaid Processing System (CHAMPS) through the MILogin application. (Refer to the Directory Appendix for website information.) LOCD assessment data is entered and processed in CHAMPS.

The LOCD is a “point in time” assessment; that is, it determines the individual’s functional eligibility at the time of the assessment. MDHHS assumes that beneficiaries will maintain functional eligibility until they are determined otherwise through a reassessment. A face-to-face assessment is an in-person meeting between the qualified and licensed health professional and the individual in order to conduct the LOCD.



SECTION 2 – ELIGIBILITY REQUIREMENTS

Individuals seeking Medicaid-funded services from nursing facilities, MI Choice Waiver Program, PACE, or the MI Health Link HCBS Waiver Program must meet eligibility criteria. These criteria must be met before Medicaid payment is made for services rendered. Each beneficiary must be eligible for Medicaid services, demonstrate a need for nursing facility level of care, and meet all additional program-specific requirements. Medicaid reimbursement for covered services is only appropriate when both financial and functional eligibility have been established, and the individual meets other program-specific eligibility criteria.

2.1 BASIC MEDICAID ELIGIBILITY

Eligibility for Medicaid is determined by a variety of factors including, but not limited to, financial rules, age, health status, state residency and citizenship status. Providers are instructed to refer individuals who are not yet Medicaid eligible to an MDHHS local office or the MDHHS website for assistance. (Refer to the Directory Appendix for website information.)

2.2 NEED FOR NURSING FACILITY LEVEL OF CARE

An individual's need for nursing facility level of care is determined through the Nursing Facility Level of Care Determination (LOCD) assessment tool. The LOCD is a scientifically-validated and reliability-tested tool utilized during initial application and program eligibility redeterminations. This chapter describes the criteria and processes for administering the LOCD.

2.3 PROGRAM SPECIFIED ELIGIBILITY REQUIREMENTS

In addition to meeting Medicaid financial and functional eligibility requirements, individuals must also meet all program specific requirements before they can be determined eligible for that program. (Refer to the Medicaid Provider Manual chapters for Nursing Facilities, MI Choice, Program of All-Inclusive care for the Elderly (PACE) and MI Health Link or provider contracts for specific program requirements.) This chapter applies only to the LOCD process and is not intended to replace program-specific requirements.



SECTION 3 – NURSING FACILITY LEVEL OF CARE DETERMINATION PROCESS

3.1 LOCD ASSESSMENT REQUIREMENT FOR REIMBURSEMENT

The LOCD must be conducted prior to or the day of an individual's admission to a nursing facility or enrollment in MI Choice Waiver Program, PACE, or MI Health Link Home and Community Based Services (HCBS) Waiver Program to ensure reimbursement for a Medicaid eligible beneficiary. The LOCD must be conducted face-to-face by a qualified and licensed health professional. The qualified and licensed health professional conducting the LOCD or a designated employee of the organization must enter the assessment findings online in the CHAMPS system. Except where otherwise noted, only LOCDs entered in CHAMPS are considered valid for establishing functional eligibility.

The LOCD is considered payable when all the following conditions are met:

- the beneficiary meets LOCD criteria;
- the LOCD is entered online in CHAMPS;
- the LOCD is active on the date of service (meaning the date of service is on or after the LOCD Start Date and before the LOCD End Date); and
- the beneficiary is receiving LTSS and meets all program-specific eligibility criteria.

3.2 PERSONS AUTHORIZED TO CONDUCT THE LOCD

Michigan. A qualified and licensed health professional may be a physician, registered nurse, licensed practical nurse, licensed social worker (Limited License Bachelor of Social Work, Limited License Master Social Worker, Licensed Bachelor Social Worker, or Licensed Master Social Worker), physician's assistant, nurse practitioner, licensed psychologist, physical therapist, respiratory therapist, occupational therapist or speech therapist. Once the LOCD is completed by a qualified and licensed health professional, a clinical or non-clinical staff person may enter the LOCD information in CHAMPS. When the LOCD data are entered, CHAMPS applies the MDHHS algorithm to determine eligibility.

For individuals receiving services through the MI Health Link HCBS Waiver program, the LOCD must be conducted according to MI Health Link program requirements.

3.3 INITIAL LOCD ASSESSMENT

The LOCD must be conducted face-to-face by a qualified and licensed health professional as defined in the Persons Authorized to Conduct the LOCD subsection, before the provider is eligible for Medicaid reimbursement for services rendered to the beneficiary. The LOCD must be conducted prior to or on the day of admission or enrollment. The LOCD assessment findings for all LOCDs conducted, including Door 0 (zero) which indicates the individual does not meet LOCD criteria, must be entered online in CHAMPS. (The LOCD Doors are described in Section 4 – Nursing Facility Level of Care Determination Criteria, below.)

All LOCD determinations must be entered in CHAMPS. This is regardless of whether the individual or beneficiary meets LOCD criteria.



The provider may conduct LOCDs for individuals without Medicaid eligibility and enter the LOCD in CHAMPS prior to Medicaid eligibility being established. NOTE: Medicaid reimbursement for covered services is only appropriate when both financial and functional eligibility have been established, and the individual meets other program-specific eligibility criteria.

3.4 ADOPTION OF AN EXISTING LOCD BY ANOTHER PROVIDER

The LOCD is associated with the beneficiary, rather than the provider serving the beneficiary. Therefore, if a beneficiary is seeking admission to or enrollment in a program and has a current LOCD in CHAMPS, the provider may adopt that LOCD to confirm functional eligibility. When adopting a current LOCD, the provider must print out the computer-generated FOC from that LOCD record and complete the form with proper signatures and date. A qualified and licensed health professional from the admitting or enrolling provider must sign and date the CHAMPS-generated FOC for the adopted LOCD record. The FOC must also be signed by the beneficiary or their legal representative.

The provider may also choose to conduct a new LOCD. A new LOCD must be conducted if the current LOCD is no longer an accurate representation of the beneficiary's current functional status.

3.5 LOCD START AND END DATES

All LOCDs must be entered in CHAMPS within 14 calendar days from the date the qualified and licensed health professional conducted the face-to-face LOCD. Functional eligibility is valid for 365 days from the conducted date unless the provider conducts a new LOCD because a beneficiary had a significant change of condition. If a subsequent LOCD is conducted prior to the LOCD End Date and confirms the individual meets LOCD criteria, the new LOCD will have 365-day end-date. Providers should refer to their specific program policies and procedures regarding the definition of a significant change of condition.

Each beneficiary must have a current LOCD in CHAMPS to establish eligibility for Medicaid reimbursement. The provider is responsible for:

- confirming that a current LOCD demonstrating eligibility is in CHAMPS;
- monitoring the beneficiary's LOCD End Date to avoid an interruption in functional eligibility; and
- conducting another LOCD for the beneficiary prior to the current LOCD End Date or when there is a significant change of condition.

The LOCD Start Date will be the date the LOCD was conducted if the LOCD is entered in CHAMPS within 14 days of the conducted date. If the LOCD is entered in CHAMPS more than 14 days from the date the LOCD was conducted, CHAMPS will set the LOCD Start Date as the date the LOCD was entered in the system. The End Date of an LOCD will be 365 days from the date the LOCD was conducted. LOCDs are payable from the Start Date through the End Date. (Refer to the Nursing Facility Level of Care Determination Criteria section for an explanation of each Door).

3.6 VERIFICATION REVIEW OF LOCD

The purpose of the verification review (LOCD-VR) is to determine if the LOCD was conducted properly according to policy and resulted in the correct determination of eligibility. A randomly selected sample of LOCDs will be reviewed by MDHHS or its designee. CHAMPS will randomly select a statistically significant sample of LOCDs entered in the system. Upon submission of the LOCD in the system, CHAMPS will



immediately notify the provider if the LOCD was selected for review. The provider is required to submit all relevant documentation used to support the LOCD including, but not limited to, observation notes, assessment reports, physician orders or notes, caregiver reports, cognitive test results, time studies, nursing or case management notes, intervention reports, or evidence of other medical or community services provided. The related CHAMPS LOCD Application ID must be indicated on all the documents for tracking purposes. Documents must be uploaded electronically in CHAMPS within one business day of the LOCD being selected for verification review in CHAMPS.

MDHHS or its designee will review the documentation furnished by the provider and make a determination within two business day of receiving the required documentation. Upon conclusion of the review, MDHHS or its designee will inform the provider of the result of the review in CHAMPS. When an LOCD is selected for review, the determination of eligibility is not complete until MDHHS or its designee notifies the provider of the results of the verification review.

When the individual is found to not meet LOCD criteria, MDHHS or its designee will provide to the individual an Adequate Action Notice including appeal rights, per Medicaid policy. Services provided to the individual during the review process will not be eligible for Medicaid reimbursement.

3.7 ONGOING FUNCTIONAL ELIGIBILITY

Medicaid LTSS providers are required to ensure the individual continues to meet eligibility requirements on an ongoing basis. The functional eligibility that is assessed by the LOCD is one of the eligibility requirements. Therefore, Medicaid LTSS providers must ensure that individuals meet LOCD criteria on an ongoing basis. The LTSS provider is responsible for conducting a new LOCD if there is a significant change in the beneficiary's condition. When a provider possesses information that a beneficiary may no longer meet eligibility, the provider must conduct a face-to-face reassessment. Such information may come in the form of progress notes, routine assessments, staff observations, or any other documentation that might call into question the continued functional eligibility of the beneficiary.

3.8 PASSIVE REDETERMINATION OF FUNCTIONAL ELIGIBILITY

Providers are responsible for reassessing LOCD eligibility prior to the End Date of the current LOCD or when there is a significant change in the beneficiary's condition. The Minimum Data Set (MDS) for nursing facility residents and interRAI Home Care Assessment System (iHC) for MI Choice Waiver Program participants contain items that correspond to the items in the LOCD. Under certain conditions, MDHHS will use a passive redetermination process based upon information from the beneficiary's most recent assessment. When this assessment data is available, MDHHS will apply an algorithm that uses the common assessment items to allow CHAMPS to generate a new LOCD for the beneficiary.

Currently, passive redetermination is only available to nursing facility residents, including those in the MI Health Link program, and MI Choice Waiver Program participants because MDHHS does not have electronic assessment data available for PACE or the MI Health Link HCBS waiver program. When MDHHS has electronic assessment data from those programs, MDHHS will use the passive redetermination process to allow CHAMPS to generate a new LOCD for the beneficiary. An LOCD generated by CHAMPS can be adopted by all LTSS programs.

3.8.A. LOCD DOORS ADDRESSED BY PASSIVE ASSESSMENT



The correspondence between MDS and iHC assessment items and LOCD items is extensive but not complete. Therefore, the algorithm used for the passive redetermination process is not able to verify eligibility through all LOCD doors. The passive redetermination process may confirm LOCD eligibility as follows:

Door 1: The passive redetermination process can confirm all criteria.

Door 2: The passive redetermination process can confirm all criteria.

Door 3: The passive redetermination process can confirm criteria from the MDS (nursing facilities). The passive redetermination process cannot confirm criteria from the iHC (MI Choice).

Door 4: The passive redetermination process cannot confirm criteria.

Door 5: The passive redetermination process can confirm all criteria.

Door 6: The passive redetermination process can confirm criteria from the MDS (nursing facilities). The passive redetermination process can partially confirm criteria from the iHC (MI Choice).

Door 7: The passive redetermination process cannot confirm the criteria.

Door 8: The passive redetermination process cannot confirm the criteria.

3.8.B. PASSIVE REDETERMINATION PROCESS

The initial LOCD for a beneficiary must be conducted in a face-to-face meeting by a qualified and licensed health professional. When a current LOCD exists for a beneficiary, MDHHS will use the passive redetermination process to allow CHAMPS to generate a new LOCD for the beneficiary. The amount of time from the provider conducting an assessment to MDHHS having access to the assessment data varies, affecting when the passive redetermination process will be applied.

When this process confirms continued functional eligibility, the Start Date of the CHAMPS-generated LOCD will be the date of the MDS or iHC assessment. CHAMPS will set the End Date at 365 days from the newly established Start Date. This process will repeat with each new MDS or iHC when the passive redetermination process confirms the beneficiary meets LOCD criteria and allows CHAMPS to generate a new LOCD.

When a beneficiary is currently eligible through a door that the passive redetermination process cannot confirm, the LOCD will be bypassed from the passive redetermination process and the current End Date will remain in effect.

The passive redetermination process will not determine ineligibility. If an individual previously met LOCD criteria through a Door the passive redetermination process can assess, and the process cannot establish eligibility from the most recent MDS or iHC, CHAMPS will issue a notice to the provider. Additionally, CHAMPS will generate a new LOCD using Door 87 with a Start Date equal to the date the passive redetermination process was applied to the MDS or iHC assessment. The Door 87 LOCD will have an End Date of 45 days from the Door 87 Start Date, or the End Date of the previous LOCD, whichever is earlier.



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The provider must conduct a face-to-face LOCD before the Door 87 End Date to confirm the beneficiary continues to meet LOCD criteria. If the provider does not conduct a face-to-face LOCD before the Door 87 End Date, the provider will not be eligible for Medicaid reimbursement. The Door 87 is not sufficient basis for issuing an Adverse Action Notice to the beneficiary. An Adverse Action Notice must be based upon a face-to-face LOCD.

3.8.C. PASSIVE ASSESSMENT DECISIONS

If the face-to-face LOCD results are:	And the Passive Redetermination results are:	Then the LOCD results are as follows:
Eligible through a Door assessed by Passive Redetermination e.g. Door 1	Confirmed by Passive Redetermination e.g. confirm Door 1	New LOCD created with End Date 365 days from date of the MDS or iHC assessment
Eligible through a Door not assessed by Passive Redetermination e.g. Door 4	Passive Determination is not applied.	No change to existing LOCD or its End Date
Eligible through any door e.g. Door 7	Eligible through a different door e.g. Door 2	New LOCD created with the Passive Redetermination Door and an End Date 365 days from the date of the MDS or iHC assessment.
Eligible through a Door assessed by Passive Redetermination e.g. Door 2	Passive Redetermination does not determine eligibility through any door	LOCD Door 87 created with an End Date of 45 days from the date the passive redetermination ran.

Note: For the passive redetermination process to occur, a current LOCD must be in CHAMPS and the MDS or iHC must be conducted prior to the End Date of the LOCD.

3.8.D. NEED TO CONDUCT A NEW LOCD

For the Doors that the passive determination is unable to assess, the provider must conduct a face-to-face LOCD prior to the current LOCD End Date. The provider must conduct a new face-to-face LOCD prior to the End Date and enter it in CHAMPS within 14 days of the conducted date.

When the passive redetermination applies but the process cannot confirm eligibility based upon MDS or iHC assessment data, CHAMPS will create a LOCD Door 87 with an End Date 45 days from the date that record is loaded in CHAMPS, or until the current End Date, whichever is earlier. When the passive redetermination process continuously confirms that the beneficiary meets LOCD criteria, it is possible that the beneficiary will not require another face-to-face LOCD because the passive redetermination process confirms LOCD eligibility and creates a new LOCD with a new 365-day End Date. In addition, providers must conduct a face-to-face LOCD when there is a significant change in the beneficiary's condition, as defined by the program.



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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 in Appendix 9.

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: FRAILTY

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 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.



SECTION 5 – INFORMED CHOICE

Informed choice is important for the MDHHS admission or enrollment process for LTSS. It is essential that individuals and their legal representatives fully understand all available options for receiving Medicaid LTSS. When an individual meets LOCD criteria, they will automatically meet the functional eligibility requirement for nursing facility care, MI Choice Waiver Program, PACE, and MI Health Link HCBS Waiver Program. The Freedom of Choice form confirms that these options and referral processes have been explained to the individual. All Medicaid-funded LTSS programs are required to make program information available to individuals at admission/enrollment, at a face-to-face reassessment, and upon request from the individual or their legal representative.

Program providers must explain all Medicaid LTSS options as well as other available LTSS to the individual in a language the individual understands, as well as culturally and linguistically appropriate. It is important that individuals understand their options and that they have ongoing access to information about all settings and programs. As the functional ability of the individual may change over time and program options may change, it is important to continue to update their options and discharge plan.

5.1 FREEDOM OF CHOICE FORM

A properly completed Freedom of Choice (FOC) form documents the individual's choice of where to receive LTSS. It is required that all LTSS programs use this form to confirm the individual was made aware of their choices and to document the individual's preference. It is critical that individuals understand their options and have ongoing access to information about settings and programs. This requires providing the information using methods that are effective for the individual and in the individual's primary language. The individual (or their legal representative) must be informed of Medicaid LTSS available through the MI Choice Waiver Program, nursing facilities, PACE, and MI Health Link HCBS Waiver Program. An explanation regarding each program must be provided in a manner and using language that the individual understands. A hard copy of the form must be printed so signatures can be provided, and the signed form retained in the beneficiary's case record. The FOC form must be completed each time the beneficiary changes programs or providers, whether a new LOCD is conducted or not.

A CHAMPS-generated FOC form is automatically created online (and available to print) for every individual for whom an online LOCD was completed, regardless of the individual's determination of eligibility.

When adopting a current LOCD, the provider must print out the computer-generated FOC from that LOCD record and complete the form with proper signatures and date. A qualified and licensed health professional from the admitting or enrolling provider must sign and date the CHAMPS-generated FOC for the adopted LOCD record. The FOC must also be signed by the individual or their legal representative.

The information in Section I of the FOC is automatically populated by CHAMPS when the LOCD is entered. The individual's name, date of birth, conducted date of the LOCD, eligibility status, and, if determined eligible, the door through which the individual qualified is entered by the system. If the individual is found ineligible a Door 0 will populate. The system also enters the provider's information and the date the LOCD was created. The qualified and licensed health professional who conducted or adopted the LOCD must sign, provide their title, and date the FOC under Section I. If using an FOC form not generated by CHAMPS, the provider must complete the appropriate fields in Section 1 and sign and date the form.



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Section II of the FOC provides a list of LTSS options available to individuals who meet LOCD criteria, including nursing facility care, MI Choice Waiver Program, PACE, or MI Health Link HCBS Waiver Program. Individuals must also be informed of service options that do not require nursing facility level of care, including Home Health, Home Help State Plan services, and other services available locally that are not Medicaid-funded.

Section III of the FOC is completed when an individual does not meet the LOCD criteria. The individual, or their legal representative, must sign their name and provide the date they were notified of their LOCD ineligibility and appeal rights. Appeal rights must be provided according to Michigan Medicaid policy.

The form is completed when the above steps have been taken and it is signed and dated by the qualified and licensed health professional who conducted the LOCD and the individual or their legal representative. The completed FOC form must be maintained in the individual's record and provided to the individual or their legal representative upon request. A copy of the completed FOC form for non-qualifying individuals must be retained for at least three years.



SECTION 6 – INDIVIDUAL DOES NOT MEET LOCD CRITERIA, ACTION NOTICES, AND APPEAL RIGHTS

If an individual does not meet LOCD criteria for Doors 1 through 7, the provider must provide notice to the individual. The individual may request a Secondary Review from MDHHS or its third-party designee and request a Medicaid Fair Hearing before an Administrative Law Judge.

6.1 ISSUING AN ADVERSE ACTION NOTICE

When a qualified and licensed health professional determines that an individual does not qualify for nursing facility level of care services based on the online LOCD, and the provider does not contact the MDHHS designee to request a Secondary Review, the provider must issue an adverse action notice to the individual or their legal representative. The provider must also offer the individual referral information about other services that may meet the individual's needs.

6.2 ADEQUATE ACTION NOTICE

For individuals who are not currently receiving LTSS, an adequate action notice is provided when the initial LOCD determines the individual does not meet LOCD criteria. The adequate action notice must include all the language in the sample adequate action notices for LTSS available on the MDHHS LOCD website. (Refer to the Directory Appendix for website information.)

6.3 ADVANCE ACTION NOTICE

The advance action notice is applicable to beneficiaries who met their initial LOCD, but based upon a significant change in condition, did not meet their subsequent LOCD. The advance action notice must include all of the language in the sample advance action notices for LTSS available on the MDHHS LOCD website. (Refer to the Directory Appendix for website information.)

When a current LTSS beneficiary is determined to not meet LOCD criteria, the provider must follow program-specific procedures for the provision of notice to the beneficiary.

6.4 LOCD SECONDARY REVIEW

The provider or the individual (or their legal representative) may request an LOCD Secondary Review. This review is completed by MDHHS or its designee to ensure full consideration of LOCD eligibility options. The Secondary Review is available only when an LOCD is entered in CHAMPS and results in a Door 0, indicating ineligibility. The review is a secondary review of documentation for all LOCD Doors, including Door 8.

The LOCD Secondary Review Process is conducted as follows:

- A Secondary Review may be initiated by the provider, individual or their legal representative after the qualified and licensed health professional issues an adverse action notice based on a finding of ineligibility. The provider, individual or their legal representative may request a Secondary



Review from MDHHS or its designee. The individual will have three business days to make a request following written notice of the adverse action.

- In the action notice, the provider who conducted the ineligible LOCD must provide the individual with information on how to timely request a Secondary Review following an ineligible LOCD.
- Following the individual's request for review, the MDHHS designee will contact the provider who conducted the LOCD and inform them to upload documentation in CHAMPS for review.
- The provider who conducted the LOCD will upload the relevant documentation in CHAMPS within one business day of being notified to do so.
- The MDHHS designee will review the documentation, obtain information from the individual or their legal representative, if requested, and notify the provider and the individual or their legal representative of the decision.
- If the Secondary Review determines that the individual is eligible, MDHHS or its designee will contact the provider and the individual or their legal representative.
- If the Secondary Review determines that the individual is ineligible, MDHHS or its designee will issue an adverse action notice and inform the individual of their appeal rights.
- MDHHS or its designee will enter the appropriate LOCD in CHAMPS.

6.5 APPEAL RIGHTS AND MEDICAID FAIR HEARING

When an individual is determined ineligible for services and an appeal is requested, it is an adverse action for the individual. If the individual or their legal representative disagrees with the denial, they may request an administrative hearing.

The Michigan Administrative Hearing System (MAHS) Administrative Hearings Pamphlet explains the process by which an administrative hearing and a preliminary conference is brought to completion. The pamphlet is available for review on the MDHHS website. (Refer to the Directory Appendix for website information.) Both a provider representative and a MDHHS LTC Policy Section representative must be present at the hearing.

When a current LTSS beneficiary is determined to not meet LOCD criteria, the provider must follow program-specific procedures for the provision of notice to the beneficiary.

When a beneficiary is determined to no longer be eligible for Medicaid-funded services and an appeal is requested, Medicaid will continue to pay for services if the beneficiary appeals within required program timeframes. If the beneficiary does not appeal the decision, the provider is eligible for Medicaid-reimbursement through the effective date of the advanced action notice, or the date in which the beneficiary stopped receiving services, whichever is first. When the beneficiary appeals the decision in compliance with MDHHS policy, MDHHS will reimburse the provider for services throughout the appeal process. If the beneficiary's appeal is denied, MDHHS will reimburse the provider for up to 30 days from the date of issuance of the hearing decision and order.



Medicaid Provider Manual

DIRECTORY APPENDIX

CONTACT/TOPIC	PHONE # FAX #	MAILING/EMAIL/WEB ADDRESS	INFORMATION AVAILABLE/PURPOSE
NURSING FACILITY LEVEL OF CARE DETERMINATION			
Community Health Automated Medicaid Processing System (CHAMPS) Level of Care Determination (LOCD)		https://milogintp.michigan.gov	
Level of Care Determination of Field Definitions		www.michigan.gov/medicaidproviders >> Michigan Medicaid Nursing Facility Level of Care Determination (under Resources)	
MDHHS County Offices		www.michigan.gov/mdhhs >> Inside MDHHS >> County Offices	
Michigan Medicaid Nursing Facility LOCD Exception Process		www.michigan.gov/medicaidproviders >> Michigan Medicaid Nursing Facility Level of Care Determination (under Resources)	
Michigan Administrative Hearing System (MAHS) Administrative Hearings Pamphlet		www.michigan.gov/medicaidproviders >> Michigan Administrative Hearing System for the Department of Health and Human Services (under Resources)	