

STATE OF MICHIGAN

MI Court of Appeals

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**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

ELLEN M. ANDARY, a legally
incapacitated adult, by and through
her Guardian and Conservator,
MICHAEL T. ANDARY, M.D., PHILIP
KRUEGER, a legally incapacitated
adult, by and through his Guardian,
RONALD KRUEGER, & MORIAH,
INC., d/b/a EISENHOWER
CENTER, a Michigan corporation,

Plaintiffs-Appellants,

v

USAA CASUALTY INSURANCE
COMPANY, a foreign corporation,
and CITIZENS INSURANCE
COMPANY OF AMERICA, a
Michigan corporation,

Defendants-Appellees.

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**MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE
ON BEHALF OF THE MICHIGAN BRAIN INJURY PROVIDER
COUNCIL (MBIPC) IN SUPPORT OF PLAINTIFFS/APPELLANTS**

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The Michigan Brain Injury Provider Council (hereinafter addressed simply as MBIPC) respectfully requests that this Honorable Court grant MBIPC permission to file a brief amicus curiae in this case, and in support of that request, MBIPC states the following:

1. MBIPC is a trade association that serves providers in a wide range of professions related to brain injury rehabilitation. Its members include large residential rehabilitation facilities like Eisenhower Center as well as small businesses that provide attendant care, transportation, guardianship, durable medical equipment, case management, vocational rehabilitation, and home modifications for brain injured persons.

2. Post-acute rehabilitation is essential to the care, recovery, and rehabilitation of persons injured in motor vehicle accidents in Michigan, including the brain injured. But, unlike expenses incurred for care that is provided immediately after a person is injured in a motor vehicle accident, most post-acute rehabilitation services are not covered by Medicare. Instead, providers that provide post-acute rehabilitation are paid by no-fault, workers compensation, or in some non-auto cases, Medicaid, under its waiver program.

3. In Michigan, the No-Fault Act has long protected persons injured in motor vehicle accidents by ensuring that lifetime medical care was provided. It has done so by mandating that costs of post-acute rehabilitation services be reimbursed at reasonable and customary rates. Effective July 1, 2021, however, the reimbursement rates for post-acute rehabilitation services will be cut by 45% from what providers charged on January 1, 2019. Without appropriate reimbursement, providers will be unable to continue providing post-acute rehabilitation services that are needed by persons injured in motor vehicle accidents.

4. Residential facilities will no longer care for persons injured in motor vehicle accidents and private agencies also will not provide in-home attendant care services for them because it is impossible to continue operating if reimbursement is cut by 45%. Given

the limited number of licensed nursing homes operating in Michigan and the fact that the needs of many brain injured persons make nursing homes unsuitable for them, the care needs of those most seriously injured in motor vehicle accidents will no longer be fulfilled.

5. The issues addressed in this case will determine whether providers currently serving the brain injured in Michigan can continue caring for persons injured in motor vehicle accidents in Michigan. MBIPC shares Eisenhower Center's interest in ensuring that post-acute rehabilitation services continue to be provided for persons injured in motor vehicle accidents in Michigan. It also shares the concerns of persons injured in motor vehicle accidents before the No-Fault Act was amended, who, like Philip Krueger, will be discharged from post-acute residential facilities if these rate cuts are applied retroactively.

6. As amicus curiae, MBIPC may assist this Court by providing a broader perspective than the parties on the important legal issues addressed in this case. MBIPC is also uniquely qualified to address the effect that the recent changes to the No-Fault Act will have on providers of post-acute rehabilitation services in Michigan as well as those persons injured in motor vehicle accidents in Michigan before the statute was amended.

WHEREFORE, MBIPC respectfully requests that this Honorable Court grant its motion for leave to file a brief amicus curiae in this most important case , and thus, accept for filing its brief amicus curiae, which it is filing with this Court today along with this motion.

Respectfully submitted:

Dated: May 25, 2021

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**STATE OF MICHIGAN
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**BRIEF AMICUS CURIAE OF MICHIGAN BRAIN INJURY PROVIDER
COUNCIL (MBIPC) IN SUPPORT OF PLAINTIFFS/APPELLANTS**

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INTRODUCTION¹

The trial court's decision to reject the constitutional claims made by the Eisenhower Center in this declaratory relief action all but ensures that post-acute rehabilitation services that are not covered by Medicare will not be provided for persons injured in motor vehicle accidents in Michigan, including the brain injured after July 1, 2021. Moreover, its decision to apply the recent amendments to the No-Fault Act retroactively further guarantees that providers of post-acute rehabilitation services will have no option but to stop caring for persons injured in motor vehicle accidents in Michigan including persons injured before the No-Fault Act was amended. Reducing reimbursement for post-acute rehabilitation services not covered by the Medicare program by 45% via MCL 500.3157(7)(a) will not only lead to devastating job losses in Michigan, it will endanger the health and safety of those persons most seriously injured in motor vehicle accidents in Michigan, including the brain injured.

Unless this Court reverses the trial court's holding in this case, and thus, preserves the status quo in Michigan, the result will be a swift and devastating end to a model system for rehabilitating persons injured in motor vehicle accidents in Michigan. Post-acute rehabilitation services not covered by Medicare will no longer be available to persons injured in motor vehicle accidents in Michigan, because there will be no one to provide those services after July 1, 2021 when reimbursement rates are reduced by 45%. Current, often long-term, residents of post-acute rehabilitation facilities in Michigan will be discharged. It will be a disruption to the existing health care system in Michigan unlike

¹This brief amicus curiae was authored solely by the undersigned counsel on behalf of MBIPC and no monetary contribution was made by a party or counsel for a party that was intended to fund the preparation or submission of its amicus briefing in this case.

anything seen since government funding for mental health clinics was drastically reduced in the mid-1990s and mental health facilities like the Lafayette Clinic in Detroit were closed with seriously ill patients discharged into a community unable to adequately care for them.

AMICUS CURIAE'S INTEREST

The Michigan Brain Injury Provider Council (MBIPC) is a trade association that serves providers in professions related to brain injury rehabilitation. Its members include large residential rehabilitation facilities like Eisenhower Center as well as small businesses that provide attendant care, transportation, guardianship, durable medical equipment, case management, vocational rehabilitation, and home modifications for brain injured persons.

Post-acute rehabilitation services are an essential part of the care, recovery, and rehabilitation of persons injured in motor vehicle accidents in Michigan, including the brain injured. But, unlike expenses incurred for care provided immediately after a person is injured in a motor vehicle accident, most post-acute rehabilitation services are not covered by Medicare. Instead, providers that provide post-acute rehabilitation are paid by no-fault, workers compensation, or in some non-auto cases, Medicaid, under its waiver program.

In Michigan, the No-Fault Act has long protected persons injured in motor vehicle accidents by ensuring that lifetime medical care was provided. It has done so by mandating that the cost of post-acute rehabilitation services be reimbursed at reasonable and customary rates. But, effective July 1, 2021, reimbursement rates for post-acute rehabilitation services will be cut by 45% from what providers charged on January 1, 2019. MCL 500.3157(7)(a). Without appropriate reimbursement, providers will not continue providing post-acute rehabilitation services for persons injured in motor vehicle accidents.

MBIPC recently conducted a state-wide survey of care providers engaged in professions related to brain injury rehabilitation.² That survey concluded that “facilities will be forced to lay off thousand of workers, discontinue catastrophic care for thousands of auto accident patients and potentially go out of business” if reimbursement is cut by 45%.³ An independent study by IBH Analytics draws similar conclusions regarding the dramatic impact that the amended law will have on post-acute rehabilitation providers in Michigan.⁴

The job loss figures alone are stunning. Nearly all respondents “expect a decrease in the number of jobs” at post-acute rehabilitation facilities if drastic cuts in reimbursement for post-acute rehabilitation services not covered by Medicare are enforced. According to the MBIPC survey, “[o]n average, each facility expects to lose 21 to 30 jobs”. That would mean “3,250 to 4,650 jobs lost” state-wide at facilities providing post-acute rehabilitation. Additional job losses for positions dependent on post-acute rehabilitation facilities was not quantified, but it presumably will be considerable given the size of the facilities impacted.

Even more troubling is that “[e]ighty-six (86%) of post-acute care facilities have either no confidence at all (65%) or very little confidence (21%)” about operating at a sustainable level under the reimbursement rates imposed by the amended No-Fault Act. After July 1, 2021, many providers of post-acute rehabilitation services in Michigan will be shutting down and others will be making drastic reductions to their operations in Michigan.⁵

²Exhibit 1, MBIPC Survey of Brain Injury Providers (March 2021).

³The same cannot be said of providers whose services are covered by Medicare as the amended No-Fault Act ensures reimbursement at rates double what Medicare is paying.

⁴Exhibit 2, IBH Analytics No-Fault Business Survey (April 2021).

⁵Exhibit 3, Affidavits from providers of post-acute rehabilitation services in Michigan.

While the Department of Financial and Insurance Services (DIFS) continues to claim publicly that the amended No-Fault Act will not change the care provided⁶, it steadfastly ignores the fact that there will be few, if any, providers that can afford to continue providing post-acute rehabilitation services. Consequently, after July 1, 2021, it is likely that there will be no one to care for those most seriously injured in motor vehicle accidents in Michigan.⁷

Residential facilities will no longer be able to care for persons injured in motor vehicle accidents, and private agencies similarly will not provide in-home attendant care services for them, because it will be impossible to continue operating if reimbursement is cut by 45%. Given the limited number of licensed nursing homes operating in Michigan and the fact that the needs of the brain injured often makes nursing homes unsuitable for them, the care needs of those most seriously injured in motor vehicle accidents will not be met.⁸

The issues addressed in this case will determine whether many providers currently serving the brain injured in Michigan can continue caring for persons injured in motor vehicle accidents. MBIPC shares Eisenhower Center's interest in ensuring that post-acute rehabilitation services continue to be provided to persons injured in motor vehicle accidents in Michigan. It also shares the concerns of persons injured in motor vehicle accidents before the No-Fault Act was amended, who, like Philip Krueger, presumably will be discharged from post-acute residential facilities if such drastically reduced reimbursement

⁶See https://www.youtube.com/watch?v=gBhIWJ6Cn_0&t=2958s, at 48:18–49:32, where DIFS director Anita Fox addresses a question regarding PIP benefits for an injured person's on-going care needs resulting from a prior motor vehicle accident.

⁷See Exhibit 4, Letters from providers of post-acute rehabilitation services in Michigan.

⁸See Exhibit 5, CPAN Home Care Survey and Fact Sheet (April 2021).

rates are applied retroactively. Accordingly, MBIPC requests that this Court consider its position as it determines whether the trial court's holding in this case should be reversed.

QUESTIONS PRESENTED

MBIPC, as amicus curiae, accepts and concurs with the questions presented as stated in Plaintiffs/Appellants' Brief on Appeal, at page ix.

ARGUMENT

- I. **THIS COURT SHOULD REVERSE THE TRIAL COURT'S DECISION TO DISMISS THIS CASE BECAUSE PLAINTIFFS/APPELLANTS HAVE ASSERTED VIABLE CONSTITUTIONAL CLAIMS TO THE NO-FAULT ACT AS AMENDED IN 2019. IF NOT REVERSED, POST-ACUTE REHABILITATION SERVICES WILL SOON END FOR PERSONS INJURED IN MOTOR VEHICLE ACCIDENTS IN MICHIGAN.**

Since the No-Fault Act was adopted in Michigan, 44,400 claims have been reported to the Michigan Catastrophic Claims Association (MCCA).⁹ Of those reported claims, 18,140 claims were still open according to the MCCA as of June 30, 2020. That is over 40%! And, roughly 45% of the claims reported to the MCCA involved brain injuries. Presumably, the brain injured account for the vast majority of open claims with the MCCA.¹⁰

In 2020, the MCCA reimbursed PIP insurers for \$1.3 billion in claims paid on behalf of the catastrophically injured in Michigan. Nearly 70% of the payments made by the MCCA in 2020 were made for services not typically compensated under the Medicare program.

⁹See attached Claims Statistics for the MCCA, which also can be located on-line at its website: <http://www.michigancatastrophic.com/Consumer-Information/Claim-Statistics>.

¹⁰Spinal cord and burn injuries combined are 5%. Miscellaneous injuries account over 50% of all claims to the MCCA. But, presumably, there are fewer open miscellaneous injury claims as serious orthopedic injuries typically require costly medical care right after the motor vehicle accident, not constant, life-long, care, as with the brain injured.

Services not covered under the Medicare program included agency-provided attendant care (17.61%), family-provided attendant care (16.57%), residential care (19.9%), transportation (2.20%), rehabilitation services (9.52%) and case management (2.35%).¹¹ Clearly, such services are an integral part of post-acute rehabilitation for those persons catastrophically injured in motor vehicle accidents in Michigan, especially the brain injured.

For decades, all “reasonably necessary” services have been reimbursed by PIP insurers at the “reasonable and customary” rates charged by providers that rendered care for persons injured in motor vehicle accidents in Michigan, including brain injured persons. See MCL 500.3107(1)(a) and MCL 500.3157 (before the No-Fault Act was amended). Contracts signed by the parties affirmed that “reasonable and customary” rates would be paid for services provided and services would be provided based on the parties’ mutual understanding that rates would be what was customarily charged.¹² In short, the parties agreed that the rules established before the No-Fault Act was amended in 2019 applied.

Under the amended No-Fault Act, however, reimbursement for services not covered by Medicare is limited to just 55% of the amount charged for those services on January 1, 2019. In contrast, services covered by the Medicare program are reimbursed at double the current Medicare reimbursement rate. Thus, effectively, the new law provides for a 45% pay cut for those providing post-acute rehabilitation services on behalf of persons injured in a motor vehicle accident, because few of the services provided are covered by Medicare.

¹¹Rehabilitation services are included as costs not covered by the Medicare program, because the MCCA reimburses PIP insurers only after a very high dollar threshold has been reached, and presumably, by then, the care provided is post-acute rehabilitation.

¹²See Exhibit 6, agreements used by residential care facilities like Eisenhower for post-acute rehabilitation as well as a form required for adult foster care homes in Michigan.

As such, it directly contradicts existing contractual agreements regarding services provided, which incorporated the parties' understanding that "reasonable and customary" rates would be paid, so long as the charge was reasonable, based on the pre-amended No-Fault Act.

- A. The trial court erred when it held that the contracts clause of the Michigan Constitution was not violated by reducing reimbursement rates for post-acute rehabilitation services not covered by the Medicare program because that legislative change to the No-Fault Act substantially impaired existing contractual agreements affirming that reasonable and customary rates would be paid for services provided.**

Before the No-Fault Act was amended, Eisenhower and Krueger entered into a binding agreement regarding the services provided for him. That agreement did not limit Eisenhower's reimbursement to any fee schedules statutorily imposed by the government. Instead, it provided simply that Eisenhower would be paid its reasonable and customary rates for services provided for Krueger as a resident in its post-acute rehabilitation facilities. Clearly, such an agreement conformed with the No-Fault Act's requirements under MCL 500.3157 that all amounts charged be reasonable and not more than the amount customarily charged by that provider in cases where the injured person was not insured.

But, under the amended No-Fault Act, Eisenhower will not recover its "reasonable and customary rates" for services provided for Krueger as contractually agreed. Instead, Eisenhower will be paid only 55% of what it charged on January 1, 2019, because the services provided for Krueger are not covered under the Medicare program. By arbitrarily imposing a 45% reduction on the "reasonable and customary" rates that Eisenhower charged, the amended No-Fault Act substantially impaired the obligations of a pre-existing contract and it thus violated the contracts clause. Mich Const 1963, Art 1, § 10. The trial court erred by concluding otherwise when it dismissed Eisenhower's constitutional claims.

To justify its holding, the trial court first observed that the No-Fault Act is the “rule book” that governs what coverage must be provided in the event that coverage under the no-fault auto policy issued to the insured is not the same as the statute’s requirements. Then, recognizing that the pre-2019 No-Fault Act did not provide the same limitations on reimbursement when Andary and Krueger secured PIP coverage with USAA and Citizens, the trial court concluded that the Legislature was free to limit as it did the reimbursement owed because no-fault, like workers compensation, involved a “heavily-regulated” industry.

To support that holding, the trial court relied on this Court’s prior decision in *Romein v General Motors Corp*, 436 Mich 515, 462 NW2d 555 (1990), which applied changes to workers compensation retroactively to claims accrued before the statute was amended. While acknowledging that no-fault and workers compensation are “separate and distinct areas of law”, the trial court nonetheless treated them as the same. It did so even though no-fault, unlike workers compensation, had no fee schedules before the law was amended. It did so even though no-fault, unlike workers compensation, did not cap reimbursement for attendant care services based on hours provided per week until the law was amended.

Notwithstanding these differences between no-fault and workers compensation, the trial court concluded that “both have undergone similar changes, both “have similar statutory and contractual schemes”, and both were adopted “to largely do away with tort remedies”. And, citing the *Romein* case, the trial court observed “that parties to a contract involving a highly-regulated industry cannot contractually immunize their agreement from changes in the underlying law”. Thus, according to the trial court, even contracts executed before the No-Fault Act was amended “must yield” to newly added “statutory restrictions”.

But, in comparing no-fault law and workers compensation, the trial court failed to understand that the No-Fault Act, unlike the Workers Disability Compensation Act (WDCA), MCL 418.101, et seq, never limited reimbursement in the same way that workers compensation did. While PIP insurers admittedly were “heavily regulated” under the No-Fault Act, the same could not be said about medical providers that were entitled to be paid at “reasonable and customary” rates under the No-Fault Act. Similarly, attendant care was not subject to any limitations on reimbursement. Again, there were no fee schedules and no caps on compensable hours of attendant care provided, unlike workers compensation.

That changed only when the No-Fault Act was amended in 2019 because it adopted for the very first time limits on both reimbursement and hours of attendant care provided. Unlike workers compensation in Michigan, where reimbursement rates and attendant care limits were specifically addressed by the WDCA from its inception, the No-Fault Act had no “rule-book” on reimbursement as there were no fee schedules or caps on attendant care. Thus, the trial court clearly erred by concluding that the Legislature was free to change the rules for persons injured before the No-Fault Act was amended in 2019. It further erred by equating the arguments in this case to ones that this Court previously rejected in *Romein*.

Relying on similarities between the No-Fault Act and the WDCA, as the trial court did below, obscures the fact that there are also fundamental differences between the No-Fault Act and the WDCA. Although both systems modified existing tort law in Michigan in order to ensure that certain economic losses would be paid after an individual is injured, the structure of those systems and how coverage would be provided under those systems differs greatly. Consequently, the trial court erred when it concluded that the two systems were effectively the same and that the Supreme Court’s decision in *Romein* was controlling.

Under the No-Fault Act, vehicle owners are required to buy PIP coverage to protect themselves against economic losses due to injuries sustained in a motor vehicle accident. Under the WDCA, employers are required to secure coverage that protects their employees from economic losses that result from injuries they sustain while on-the-job working. As such, the contractual relationships are not the same under the No-Fault Act and the WDCA.

With PIP coverage, the injured person typically makes a claim for PIP benefits with his or her own PIP insurer based on PIP coverage secured before the motor vehicle accident occurred. But, with workers compensation, coverage is secured by the injured person's employer, not the person who seeks to recover benefits under that coverage after being injured. The PIP insured contracts directly for PIP coverage, whereas, an injured employee does not contract with the workers compensation insurer covering his or her loss.

Simply put, there is no apt comparison to contractual relationships in workers compensation when the issue, as in this case, is whether amending existing PIP coverage legislatively constitutes an unconstitutional violation of the contracts clause in Michigan.

The trial court also erred by concluding that this Court's recent decision in *AFT Michigan v State of Michigan*, 501 Mich 939, 904 NW2d 417 (2017) did not apply to this case. In *AFT Michigan*, this Court held that the contracts clause was violated when state law was amended to require that 3% of all salaries paid to current public school employees be contributed to the state retirement system. In short, it was a mandatory salary reduction to which employees had not agreed when contracts were signed with the public schools. The same is true in this case because the amended No-Fault Act imposes a similarly mandatory reduction on reimbursement for services not covered by the Medicare program. It also similarly negates the contracts executed by the parties before the law was amended.

In attempting to distinguish this case from *AFT Michigan*, the trial court mistakenly concluded that Plaintiffs/Appellants, unlike the state employees in that case, “cannot point to a similar provision” in the contract “that specified the exact amount they would be paid.” But, in so holding, the trial court ignored the fact that contracts like the one that Eisenhower had with Krueger, included a rate schedule that identified its “reasonable and customary” rates for services provided. While the trial court was correct that the No-Fault Act did not contain a fee schedule for services provided (before it was amended in 2019), the trial court evidently failed to appreciate that the contract executed by the parties stated precisely what was owed for services provided and it did so in a manner consistent with the No-Fault Act.

Contrary to the trial court’s conclusion that the Legislature simply clarified the “meaning” of the term “reasonable” by specifying the level of reimbursement owed, the Legislature clearly did more than that because the amended No-Fault Act reduced rates based on what a provider of post-acute rehabilitation services charged on January 1, 2019. Those rates are the very same rates identified and incorporated by reference into contractual agreements between providers of post-acute rehabilitation services and persons injured in motor vehicle accidents in Michigan such as Eisenhower and Krueger.

Clearly, those rates were specified beforehand, much like the state employees’ contracts specified what they would be paid. If the rates charged on January 1, 2019, for services provided are specific enough to determine what is owed after the 45% reduction, those rates clearly are specific enough to establish that the contracts clause was violated.

Respectfully, there is no difference between what this Court previously found unconstitutional in *AFT Michigan* and what the Legislature did to existing contracts for post-acute rehabilitation services when it passed the amended No-Fault Act and mandated that

reimbursement be cut by 45% for services not covered by the Medicare program. Here, the trial court clearly erred by not holding, as this Court did when it decided *AFT Michigan*, that the statute, as amended, was unconstitutional because the contracts clause was violated.

B. The trial court erred when it held that reducing reimbursement rates for post-acute rehabilitation services not covered by the Medicare program did not violate the due process clause of the Michigan Constitution because providers of post-acute rehabilitation services had an existing protected property right to continue operating a business in Michigan.

The Due Process Clause of the Michigan Constitution prohibits depriving a person of life, liberty, or property, without due process. Mich Const 1963, Art 1, § 17. It thus protects an individual's property rights, including the right to own a business in Michigan.

The amended No-Fault Act arbitrarily cuts post-acute rehabilitation services not covered by the Medicare program by 45%. It thus violates the due process rights of providers like Eisenhower because such drastic reductions in revenue make it impossible for providers of post-acute rehabilitation services to continue doing business in Michigan.

As noted previously, most of the payments made by the MCCA (in 2020) reimbursed providers rendering services not covered under the Medicare program. Yet, the No-Fault Act now reduces reimbursement for those services by 45%. It also bases that reduction arbitrarily on the amount that providers were charging on January 1, 2019, before the new law was enacted. It thus perversely rewards providers that were overcharging as of January 1, 2019, while punishing providers that did not overcharge for services provided.

If the goal was to reign in costs, uniformly arbitrary cuts in reimbursement clearly would not be the way to do so. The only way to achieve that goal would be to adopt a fee schedule that stops providers from overcharging, instead of rewarding them for doing so.

Not surprisingly, such a drastic change in reimbursement has undermined the viability of the post-acute rehabilitation industry in Michigan. Presumably, few, if any, businesses can afford to have revenues reduced by 45% without it jeopardizing their ability to continue operations. Regardless of the level of scrutiny that is applied, the Legislature's decision to impose uniformly arbitrary reductions in reimbursement for services not covered under the Medicare program violates the due process clause of the Michigan Constitution.

C. The trial court erred when it held that reducing reimbursement rates for post-acute rehabilitation services not covered by the Medicare program did not violate the equal protection clause of the Michigan Constitution by treating providers of post-acute rehabilitation services differently than businesses providing services covered by the Medicare program.

The amended No-Fault Act treats similarly situated medical providers dissimilarly by separating them into two distinct classes. The first class is limited to providers that render Medicare compensable services to persons injured in motor vehicle accidents. The second class consists of providers that render non-Medicare compensable services to the same group of persons. Providers in the second class have dramatically reduced rights in comparison to the first class as reimbursement is limited to slightly more than half of what they charged as reasonable and customary rates for services rendered on January 1, 2019.

Such a drastic reduction assumes that rates charged for services not compensable under Medicare were vastly inflated before the No-Fault Act was amended. It also perversely rewards providers whose charges were most excessive by imposing a uniformly arbitrary reduction of 45%. Unlike the rates applied to services that are covered by the Medicare program, which pays basically double the Medicare reimbursement rate, the fee schedule limitations imposed on most post-acute rehabilitation services are not pegged to established fee schedules or independent audits of typical charges for services provided.

The defense argued below that such fee schedule limitations do not violate Eisenhower's equal protection rights, because the Legislature's decision to impose them was a rational response to providers charging too much for the services provided. But, the new law does not squarely address the problem of some providers charging too much for post-acute rehabilitation services. Instead, it rewards them for doing so and it punishes providers whose customary rates were reasonable before the No-Fault Act was amended. Whatever level of scrutiny is applied, the Legislature's decision to impose a uniformly arbitrary reduction in reimbursement for all services not covered by Medicare does not pass constitutional muster under the equal protection clause. See Mich Const 1963, Art 1, § 2.

II. THE TRIAL COURT'S HOLDING THAT REDUCED REIMBURSEMENT RATES FOR POST-ACUTE REHABILITATION SERVICES NOT COVERED BY THE MEDICARE PROGRAM CAN BE APPLIED RETROACTIVELY IS WRONG AND THE STATUS QUO MUST BE PRESERVED FOR PERSONS INJURED IN MOTOR VEHICLE ACCIDENTS BEFORE THE NO-FAULT ACT WAS AMENDED.

The question of whether to apply retroactively a legislative change to an existing statute is one that the Supreme Court is currently reviewing in *Buhl v City of Oak Park*, 505 Mich 1023, 941 NW2d 58 (2020). While this case involves a different statute than the one in *Buhl*, the issue of retroactive application of a statutory amendment is no less significant. In fact, given the likely disruption in care for persons seriously injured in motor vehicle accidents in Michigan, there is an urgency in this case that is not present in the *Buhl* case, where the question is not one that will determine whether care continues to be provided.

Moreover, as this Court astutely observed in the majority opinion in the *Buhl* case, 329 Mich App 486, 502, 942 NW2d 667 (2019), "the United States Supreme Court has noted that '[t]he largest category of cases in which we have applied the presumption against statutory retroactivity has involved new provisions affecting contractual or property

rights, matters in which predictability and stability are of prime importance.” Id, citing *Landgraf v USI Film Products*, 511 US 244, 271, 114 S Ct 1483, 128 L Ed 2d 229 (1994). Here, contractual and property rights are precisely the rights that providers of post-acute rehabilitation services in Michigan such as Eisenhower Center contend have been violated.

Yet, in rejecting the constitutional claims in this case, the trial court assumed, but never squarely addressed, whether the newly added limitations on reimbursement for post-acute rehabilitation services not covered by the Medicare program and for family-provided attendant care services applied retroactively to persons injured before the No-Fault Act was amended. Instead, the trial court simply stated as “facts/background” that “[t]hese limitations are expected to apply to individuals injured in motor vehicle accidents prior to June 11, 2019”, i.e., the effective date set by the Legislature for the amended No-Fault Act. It also observed that the Supreme Court previously applied changes to the workers compensation statute retroactively when it decided *Romein*. It then equated this case to *Romein* and rejected the constitutional claims, without addressing retroactive application.

As discussed previously, the issues in *Romein* clearly are not the same as the issues presented in this case. By incorporating fee schedules and capping attendant care services, the amended No-Fault Act now bears a closer resemblance to the WDCA. But, that was not the case before the No-Fault Act was amended in 2019 and the new limitations on reimbursement for post-acute rehabilitation and attendant care were added. PIP coverage also was “heavily regulated” but, unlike workers compensation in Michigan, no fee schedules or attendant care caps existed until MCL 500.3157 was amended in 2019.

Even more importantly, the issue of retroactive application in *Romein* differed greatly from this case because the changes to workers compensation at issue in *Romein* were

passed as “curative” legislation that was designed to promptly correct this Court’s holding that certain changes made to the coordination of benefits provision under the WDCA applied retroactively to persons injured before the WDCA was amended. There is no similar legislative history in this case, and thus, the decision in *Romein* to apply the subsequently passed “curative” legislation retroactively should have no bearing. Yet, the result in that case clearly was the linchpin in both the defense’s argument and the trial court’s decision to not only reject the constitutional claims, but also, to apply the amendments retroactively.

The trial court erred by not squarely addressing the question of whether the amended No-Fault Act applied retroactively to persons injured in motor vehicle accidents before it was enacted. Instead, the trial court simply concluded that it was proper to apply the amended No-Fault Act retroactively because that was what the Court did in *Romein*. This Court should address the retroactivity question and reverse the trial court’s decision because failing to do so would irreparably harm both providers of post-acute rehabilitation services in Michigan and those persons most seriously injured in motor vehicle accidents.

If not applied retroactively, there will be no period of adjustment in Michigan to a world where post-acute rehabilitation services for persons injured in motor vehicle accidents are no longer reimbursed at levels that allow post-acute rehabilitation providers to continue operating in Michigan. Applying the amended No-Fault Act retroactively would maintain the status quo for existing patients that need post-acute rehabilitation services. It also would ensure that providers will have an opportunity to adjust their business models to account for the drastic reduction in reimbursement for post-acute rehabilitation services. Effectively, it would save post-acute rehabilitation providers from shutting down immediately. Even more importantly, it would ensure that the health and safety of existing patients that need the post-acute rehabilitation services currently being provided for them.

CONCLUSION

After July 1, 2021, post-acute rehabilitation services will no longer be available for persons injured in motor vehicle accidents in Michigan because of the drastic cuts made to the rates of reimbursement for services not covered under the Medicare program. Eisenhower has viable constitutional claims in this declaratory relief action and MBIPC is interested in the outcome of this case, because its members are similarly affected by the changes made to reimbursement for post-acute rehabilitation services under the amended No-Fault Act. Applying the recent changes that the Legislature made to the No-Fault Act retroactively will have a devastating effect not only on providers of post-acute rehabilitation services in Michigan, but also persons injured in motor vehicle accidents in Michigan before the No-Fault Act was amended. Accordingly, MBIPC requests that this Court reverse the trial court's decision to dismiss the constitutional claims asserted in this declaratory relief action and its decision to apply retroactively the changes made to the No-Fault Act in 2019.

RELIEF REQUESTED

MBIPC respectfully requests that this Honorable Court reverse the trial court's decision to summarily dismiss the constitutional claims that are asserted in this declaratory relief action and its decision to apply the recent changes to the No-Fault Act retroactively.

Respectfully submitted:

Dated: May 25, 2021

/s/ Steven A. Hicks
Steven A. Hicks (P49966)
Counsel for Amicus Curiae MBIPC
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steve@chair2consulting.com

**STATE OF MICHIGAN
IN THE COURT OF APPEALS**

ELLEN M. ANDARY, a legally
incapacitated adult, by and through
her Guardian and Conservator,
MICHAEL T. ANDARY, M.D., PHILIP
KRUEGER, a legally incapacitated
adult, by and through his Guardian,
RONALD KRUEGER, & MORIAH,
INC., d/b/a EISENHOWER
CENTER, a Michigan corporation,

Plaintiffs-Appellants,

v

USAA CASUALTY INSURANCE
COMPANY, a foreign corporation,
and CITIZENS INSURANCE
COMPANY OF AMERICA, a
Michigan corporation,

Defendants-Appellees.

Court of Appeals Case No. 356487

Ingham County Circuit Court
Case No. 2019-000738-CZ

APPENDIX TO MBIPC'S BRIEF AMICUS CURIAE

List of Exhibits

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EXHIBIT 1

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Support HB 4486

Support Access to Care

House Bill 4486 is needed to protect access to care for thousands of individuals and families, and must be passed into law quickly to prevent the closing of brain injury rehabilitation centers throughout the state. HB 4486 maintains access to care and averts mass job layoffs. This legislation does not add cost to the system.



4,800 to 6,200 Patients
Lose Access to Care

Doors Shut on Michigan Patients

Nearly 8 in 10 of all respondents (79%) expect a decrease in the number of no-fault patients at their facility if HB 4486 does not get enacted. On average, each facility expects to lose 31 to 40 no-fault patients — this extrapolates to 4,800 to 6,200 patients across the state losing care from these facilities.



Community-Based
Centers Close

Nearly 9 in 10 post-acute care facilities have little or no confidence in staying in business

Eighty-six percent (86%) of post-acute care facilities have either no confidence at all (65%) or very little confidence (21%) that they can operate their business at a sustainable level under the auto no-fault fee schedule set to go into effect July 1.



3,250-4,650
Lose Jobs Across Michigan

Pink Slips Statewide

Nearly all respondents (90%) expect a decrease in the number of jobs at their facility if House Bill 4486 does not get enacted. On average, each facility expects to lose 21 to 30 jobs — this extrapolates to 3,250 to 4,650 jobs lost across the state that are directly connected to these facilities. This does not even account for thousands of lost jobs dependent on these community facilities.

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Survey

Under the New Auto No-Fault Law Fee Schedule, Michigan Expected to Lose Nearly 5,000 Health Care Jobs, More Than 6,000 Patients to Lose Care

A recent survey of brain injury rehabilitation care providers across the state indicates that nearly all are planning for the worst, including going out of business, if legislators don't fix technical issues in the fee schedule set by the new auto no-fault reform law. This new fee schedule goes into effect July 1 this year. Because of a technical error in the language of the fee schedule, the codes established treat these post-acute care facilities more negatively than other health care providers, slashing the amount they can charge for care by nearly half. It unfairly and severely diminishes their ability to be reimbursed for the care provided to patients with catastrophic injuries from automobile accidents.

To quantify the impact of the new auto no-fault law fee schedule on the industry, the Michigan Brain Injury Provider Council (MBIPC) commissioned a survey of care providers in professions related to brain injury rehabilitation. According to this statewide survey of over 110 brain injury rehabilitation care providers, their facilities will be forced to lay off thousands of workers, discontinue catastrophic care for thousands of auto accident patients and potentially go out of business, if a legislative fix to this flawed fee schedule isn't passed.

Here is a summary of the survey's findings:

- » **Nearly nine in ten post-acute care facilities have little or no confidence in staying in business:** More than six in ten (65%) post-acute care facilities have no confidence at all that they can operate their business at a sustainable level under the new auto no-fault fee schedule in its current form. Another 21% are only slightly confident. Only 3% say they are either somewhat or extremely confident they will be able to continue their business at a sustainable level.
- » **Thousands of patients potentially losing care across the state:** Nearly eight in ten of all respondents (79%) expect a decrease in the number of auto no-fault patients for which their facility can provide care, if the fee schedule goes forward unchanged. When asked to quantify how many patients will potentially lose care, the average response was between 31 to 40 expected patients lost per facility; meaning that between 4,800 and 6,200 patients across the state will potentially lose care from these facilities alone.
 - Nearly four in ten (38%) expect that care to be lost immediately, while more than eight in ten (85%) expect it to be lost within the first few months after the new fee schedule goes into effect.
 - The facilities surveyed currently provide care for between 6,350 and 7,800 post-acute care patients across Michigan.
- » **Thousands of jobs potentially lost across the state:** Nine in ten facilities (90%) expect to decrease their number of employees if the fee schedule goes forward unchanged. When asked to quantify how many jobs will be lost, the average response was between 21 and 30 expected jobs lost per facility; meaning that between 3,250 to 4,650 jobs will potentially be lost across all facilities in the state. This estimate does not account for indirect jobs lost.
 - More than four in ten (45%) expect to lose those jobs immediately, while more than eight in ten (85%) expect those job losses within the first few months after the new fee schedule goes into effect.
 - The facilities surveyed currently provide jobs for between 6,350 and 7,800 post-acute care practitioners across Michigan.

This survey of more than 110 post-acute care facilities across Michigan was commissioned by MBIPC and conducted by ROI Insight, a Michigan-based market research company.

EXHIBIT 2

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MICHIGAN NO-FAULT LAW CHANGE BUSINESS IMPACT

Survey Details

IBH Analytics conducted an industry survey to determine the impact of changes to Michigan's No-Fault Insurance laws that came into effect in July of 2020. IBH Analytics surveyed firms who serve those who have suffered injuries from vehicle accidents. The firms invited to participate in the survey were contacted via an email list provided and are all located in the State of Michigan. Firms self-reported their projected impacts once the laws come into full effect.

Impact to Services

A negative impact to services provided: 90% of firms estimate a reduction in services offered for TBI clients once the law is in full effect. 0% believe that they will be able to expand their services for TBI clients and only 10% believe that their services will stay the same once the law is enacted.

Exiting the business: 57% of firms stated they are either very likely or likely to exit the business of serving individuals who have experienced a vehicle accident. 29% of firms reported they were unlikely or very unlikely to exit the business of serving individuals who have experienced a vehicle accident 14% of firms that were indifferent to this question.

Fee schedule to sustain quality services: Almost all firms note they cannot sustain quality services at the fee schedule enacted to begin July 2021. The average pay cut an organization can withstand while continuing to provide quality services is 13.7% compared to enacted pay cut of 45%.

Impact to Revenue

Confidence in replacing no-fault revenue severely diminished: 72% of firms are not at all confident that they would be able to replace No-Fault revenue due to the law that has been enacted. 16% are only slightly confident in their ability to replace No-Fault revenue while 8% are moderately confident. Only 3% of firms are highly confident that they would be able to replace No-Fault revenue.

Change in annual revenue: 81% of firms estimate a decrease in annual revenue due to the law enacted. Approximately half of these estimate a decrease in revenue of 50% or more with 9% estimating a 100% decrease in revenue. 19% of all firms estimate no change or a positive change to the firm's annual revenue due to the newly enacted law.

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REVENUE AND EMPLOYEE IMPACT

Across all organization settings the average number of full-time employees in 2021 is projected to decrease from 2019. The table to the right shows the average annual revenue percent change estimate by organization setting along with 2019 and projected 2021 average full-time employee counts.

With the number of full-time employees projected to decrease in 2021, industry layoffs are expected to occur.

Percent Change in Revenue by Organization Setting with Full-Time Employee Summaries				
Organization Setting	Number of Firms	Revenue Percent Change	2019 FTE	Projected 2021 FTE
Acute Care Hospital	5	-39%	308	254
Inpatient Rehabilitation Unit within an Acute Care Hospital	5	-45%	153	119
Specialty Care Hospital (Long Term Acute Care Hospital)	4	-39%	33	29
Free Standing Rehab Hospital	3	-48%	29	25
Subacute Rehabilitation Facility	6	-38%	749	314
TBI Residential Program (AFC licensed beds)	13	-45%	1,360	755
TBI Residential Program (Semi-independent or apartments)	12	-46%	1,002	510
Outpatient Rehabilitation (Hospital Based or affiliated)	4	-45%	127	97
Outpatient Rehabilitation (Non-Hospital Based – Private)	19	-45%	1,212	627
Vocational Programs/ Sheltered Workshops	9	-37%	1,042	496
Private Practice	20	-36%	388	329
Home Health Care	13	-31%	1,555	1,030

SUMMARY OF IMPACTS

72%

of firms are not at all confident that they will be able to replace the lost No-Fault revenue

OVER HALF

of firms are likely or very likely to exit the business of serving individuals who have experienced a vehicle accident

9 OF 10

firms estimate a reduction of services once the law is in full effect

13.7%

the average pay cut a firm can withstand while continuing to provide quality services

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This survey was completed by IBH Analytics. The survey was a twenty-two question survey conducted online. The sample size was seventy-one firms. Not all firms answered each question. Areas of focus included: impact to services, revenue impact, and employee impact. Organization setting refers to the setting in which firms treat injuries from vehicle accidents. Firms could select more than one setting.

EXHIBIT 3

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AFFIDAVIT OF JOHN G. PROSSER II

STATE OF MICHIGAN)
)
COUNTY OF Oakland)

I, John G. Prosser II, being first duly sworn, deposes and states as follows:

1. I am the Vice President of Health Partners, Inc., a Michigan medical provider that specializes in rehabilitation home care programs and private home care solutions.
2. My current staff consists of approximately 530 field staff who perform home health care services and 50 administrative staff.
3. Health Partners currently services approximately 100 patients. Of these 100 patients, approximately 95 are motor vehicle accident victims, many of whom have been serviced by Health Partners for many years. Many of these patients need around the clock care, 24 hours per day/7 days per week.
4. Of the 530 field staff, approximately 46 of those individuals are family members of the patient and are employed by Health Partners to provide attendant care services to their injured family member.
5. 100% percent of the services that Health Partners provides are not compensable by Medicare. Thus, beginning on July 1, 2021, reimbursement for these services will be capped at 55% of what Health Partners was charging for these services on January 1, 2019 pursuant to the no-fault amendments, MCL 500.3157(7).
6. This 55% non-Medicare fee schedule is unsustainable and un-survivable for Health Partners, and therefore if the 55% non-Medicare fee schedule will begin being applied on July 1, 2021 to patients of Health Partners who were injured prior to that date, I know that

Health Partners will be unable to continue in business and will expect to be closing its doors on or about June 30, 2021. When Health Partners ceases to do business it will lay off approximately 580 employees.

7. I am an adult competent to testify and I can completely testify as to the facts contained in this Affidavit. I have read the contents of this Affidavit and my statements are made voluntarily and I make this Affidavit based upon the personal knowledge of the statements contained herein.

FURTHER, AFFIANT SAYETH NOT.


John G. Prosser II

Subscribed and sworn before me on this
13th day of April, 2021.


Notary Public, ~~Ingham County~~, Michigan Oakland County
My Commission Expires: 01/25/2027

Alex Gardner
Notary Public, State of Michigan
County of Oakland
My commission Expires 01/25/2027
Acting in County of Oakland

AFFIDAVIT OF JOSEPH RICHERT

STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

I, Joseph Richert, being first duly sworn, deposes and states as follows:

1. I am the President and Chief Executive Officer of Special Tree Rehabilitation System, a Michigan medical provider that specializes in traumatic brain injury and spinal cord injury rehabilitation.

2. Special Tree currently employs approximately 300 people.

3. Special Tree currently services approximately 96 patients, including 21 residential patients who live at the Special Tree. Of these residential patients, approximately 95 are catastrophically injured motor vehicle accident victims, many of whom have lived at Special Tree for years.

4. 12.3 percent of the services that Special Tree provides are not compensable by Medicare. Thus, beginning on July 1, 2021, reimbursement for these services will be capped at 55% of what Special Tree was charging for these services on January 1, 2019 pursuant to the no-fault amendments, MCL 500.3157(7).

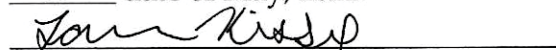
5. If the 55% non-Medicare fee schedule will begin being applied on July 1, 2021, Special Tree will have to reduce its costs by approximately \$1.3 million in order to be able to stay in business. In order to make up these costs, Special Tree will have to lay off employees and turn away patients that require more extensive care. Additionally, Special Tree will have to reduce the services and level of care it currently offers. Patients will have to reduce their expectations regarding the services that Special Tree can provide them.

6. I am an adult competent to testify and I can completely testify as to the facts contained in this Affidavit. I have read the contents of this Affidavit and my statements are made voluntarily and I make this Affidavit based upon the personal knowledge of the statements contained herein.

FURTHER, AFFIANT SAYETH NOT.


Joseph Richert

Subscribed and sworn before me on this
3 date of May, 2021.



Notary Public, Oakland County, Michigan

Acting in the County of Ingham

My Commission Expires: 9/4/2025

AFFIDAVIT OF DEVIN HUTCHINGS

STATE OF MICHIGAN)
)
COUNTY OF Washtenaw)

I, Devin Hutchings, being first duly sworn, deposes and states as follows:

1. I am the President and Chief Operating Officer of Eisenhower Center, a Michigan medical provider that specializes in traumatic brain injury rehabilitation.

2. Eisenhower Center currently employs approximately 464 people.

3. Eisenhower Center currently services approximately 192 patients, including 170 residential patients who live at the Eisenhower Center. Of these residential patients, approximately 125 are catastrophically injured motor vehicle accident victims, many of whom have lived at Eisenhower Center for years.

4. One of the patients the Eisenhower Center currently treats is Philip Krueger. Mr. Krueger was involved in a motor vehicle collision in 1990 in which he sustained catastrophic injuries, including a traumatic brain injury. Mr. Krueger has been a residential patient of Eisenhower Center since 1997. Due to his traumatic brain injury, Mr. Krueger is unable to live on his own. He requires a very structured environment and constant supervision.

5. 90 percent of the services that Eisenhower Center provides are not compensable by Medicare. Thus, beginning on July 1, 2021, reimbursement for these services will be capped at 55% of what Eisenhower Center was charging for these services on January 1, 2019 pursuant to the no-fault amendments, MCL 500.3157(7).


6. This 55% non-Medicare fee schedule is unsustainable and unsurvivable for Eisenhower Center, and therefore if the 55% non-Medicare fee schedule will begin being

applied on July 1, 2021 to patients of Eisenhower Center who were injured prior to that date, I anticipate that Eisenhower Center will be unable to continue in business and would expect to be closing its doors on or about December 31, 2021. When Eisenhower Center ceases to do business it will lay off approximately 450 employees and approximately 130 residential patients, including Philip Krueger, will have to find alternative living facilities.

7. If Eisenhower Center closes and Philip Krueger is forced to leave, it is likely that he will not be able to receive the care and supervision he needs. Mr. Krueger's father and guardian, Ronald Krueger, has terminal cancer and will likely be unable to care for him. I am unsure of what will happen to Mr. Krueger if Eisenhower Center closes.

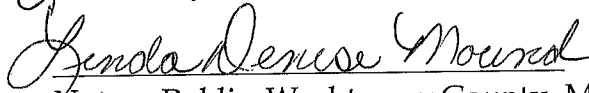
8. I am an adult competent to testify and I can completely testify as to the facts contained in this Affidavit. I have read the contents of this Affidavit and my statements are made voluntarily and I make this Affidavit based upon the personal knowledge of the statements contained herein.

FURTHER, AFFIANT SAYETH NOT.


Devin Hutchings

Subscribed and sworn before me on this

19th day of April, 2021.


Notary Public, Washtenaw County, Michigan
My Commission Expires: _____

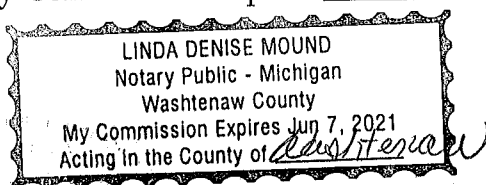


EXHIBIT 4

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April 29, 2021

Dear Clients, Guardians, and Case Managers:

In June of 2019, Governor Whitmer signed the auto no-fault 'reform' bill that brought many changes to the insurance law. One of these changes will take effect on July 1, 2021, which is a 45% reduction in what auto no-fault insurers reimburse rehabilitation companies (including Aspire Rehabilitation Services, LLC ("Aspire")), in caring for injured individuals such as our Clients.

This is a catastrophic market-changing decrease, and is well beyond Aspire's ability to absorb as a functioning company. Although we have fought hard and long against these changes that will cut company revenue nearly in half, have looked at every option, and have run every reasonable scenario, and we cannot find a way forward under this new law.

Based upon these imposed circumstances well beyond our control, Aspire will cease all Client care at 5:00 PM, E.S.T. on June 30, 2021, and wind-up its business operations. We are very sorry to bring this news to you, but we have no other choice.

As a result, we will need to have all Clients transition to one of the options below on or before 5:00 PM, E.S.T. on June 30, 2021:

1. Move to a new program and vacate your apartment, or
2. Assume the lease in your current apartment, if landlord consent is obtained on or before May 31, 2021, or
3. Find a program that will take over your lease and allow you to stay in your apartment, if landlord consent is obtained on or before May 31, 2021.

Aspire does not plan on hiring any new staff and we may experience attrition as our employees may transition to other employment prior to planned termination on June 30, 2021. This unavoidable dynamic may impact the performance of certain services. We will promptly notify you if Aspire may be unable to provide any service that we consider essential. However, due to the uncertainty of the situation, Clients should plan to transfer to a new placement or program as soon as able.

Additionally, Aspire will no longer be able to provide any transportation, including transportation to any appointment, activity, or other event after May 30, 2021. We will continue to provide for all apartment utilities, including cable and internet services through June 30, 2021, and continue to provide \$75 per week for groceries, but the activity cards and the \$40 per week for activities will be discontinued on April 30, 2021.

We thank you sincerely for your business and allowing us to provide the care that we have taken such pride in and which has been our privilege to undertake. As a token of our appreciation and in exchange for your helpful cooperation in this process, we are allowing clients to take certain property with them if they move out by 6/30/2021. The client and/or their team members will need to make a list of what they would like to take, and this list will need approval by Aspire Management prior to move-out. Clients are allowed to take anything that is not attached to the apartment, such as furniture, tables, TVs, dishes, pots and pans, silverware, bedding, towels, etc. Clients are not allowed to remove fixed items such as window shades and blinds, microwave, stove, refrigerator, washer, dryer, cable, modem and wi-fi boxes. It will be the responsibility of the client/team to move anything out of the apartment, including approved Aspire property and personal belongings. Aspire staff and management will not be able to provide any assistance with moving.

Should you have any questions, please feel free to reach out to us at 248-951-8180, and we would be happy to answer any questions you may have. We want to wish you all the best in your continued rehabilitation, and for a healthy and happy life ahead.

Best wishes,
Aspire Rehabilitation Services Management

EXHIBIT 5

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(517) 882-1096 (/CONTACT)

home (/)
about
issues
events (/events)
news (/news)
get involved
member login (/member-login)
donate (/donate)

CPAN survey finds vast majority of Michigan accident victims who receive in-home care are concerned about their future

APRIL 30, 2021

HOME CARE ELEMENTS OF NO-FAULT REFORM WILL CAUSE CHAOS FOR VULNERABLE PATIENTS

LANSING, Mich.—(April 29, 2021)—A new **CPAN** survey of Michigan auto accident victims and their home-based attendant caregivers—often family members—finds that the majority are deeply worried about how they'll continue to function after impending cuts to reimbursement rates are enacted.

2019 changes to the no-fault insurance law which take effect this July limit reimbursement for in-home family-provided attendant care to 56 hours per week—even if the patient requires help and supervision around the clock. If the patient requires additional care beyond 56 hours per week, he or she will have to turn to a commercial agency. In addition to this hourly limitation, a new fee schedule cuts reimbursement rates for attendant care by 45% after July 1, 2021. This will have a devastating impact on both the family members and the commercial agencies that provide home health care. Family members will be unable to adequately be compensated for their services and commercial home health care agencies will be forced to lay off staff or close their doors entirely, leaving many patients without recourse to get the care they need.

CPAN's survey found that the majority of provider respondents (56%) deliver home-based attendant care services to patients that need 24/7 care. Nearly half of accident victims have been receiving attendant care for more than five years and rely on routines that allow them to live with some measure of independence and dignity. Fifty percent of accident victims are cared for at home exclusively by family members.

There were 568 total responses to the survey, which gave users the opportunity to anonymously tell their heartbreaking stories.

"I had to quit my job in 2009 due to the severity of issues she encounters on a daily basis," one caregiver said. "Things have worsened over the past couple years and I have to be with her 24/7 because NO ONE understands her or her reactions as I do. She has five types of seizures, a traumatic brain injury, is non-verbal, has left side hemiparesis and has over 50 allergies to medications... she requires my attention every second of the day. Her survival is crucial to my diligence and detail of her everyday care."

Another caregiver added: "If we are limited to 56 hours of care a week, Angie will drastically lose her care... care that keeps her from injury or death."

Said another: "Our family doesn't want our daughter to go into a group home or other facility... my daughter would be extremely lonely without her loved ones nearby."

A whopping 81% of patients said they are concerned that the services they receive are going to be affected by the 56 hours per week limitation, throwing vulnerable Michigan residents into chaos while they're contending with a resurgent pandemic that continues to rage across the state.

"I have been providing attendant care to my brother for almost 14 years," a caregiver said. "I made a decision to walk away from my career to help with his

APPX 17

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care. I knew family being involved was the key to him surviving. I am the one who changes his trach (tracheostomy tube) monthly. I am the one who drives him to all his appointments. I am the one who is there to wipe his tears when he gets depressed."

In addition to issues with access to care, patients and family members are concerned about having to rely on commercial providers. In many cases, family-provided attendant care is best suited for the patient's needs. Having to get additional care from a commercial agency would result in a disruption of the care system that the patient is used to and oftentimes does not provide the patient with the same level of care and dedication that a family member provides.


Another caregiver said: "My daughter requires all of her needs to be done by others. Hygiene, dressing, meds, feeding, positioning, everything. Many of these functions require two caregivers to [perform]. My wife and I want to provide care to our daughter and want to be compensated the same as anyone else would be. She is familiar with us and we provide the absolute best care available. We do use professional caregivers also. Problems we have with professional caregivers are, they don't show up, they are late, it could be a different caregiver every day, every time we have a new caregiver, they have to learn all the procedures for caring for our daughter. Our daughter is a human being not a robot without feelings. She deserves the most appropriate care at a reasonable price that is available, family provides that care."

CPAN President **Devin Hutchings** said the survey was conducted to provide lawmakers and other decision makers with data around attendant care, since there is no database of individuals who receive home-based care stemming from auto accidents. Home-based care is an important tool in health care delivery and often critical for the progress in patient recovery.

Hutchings said our lawmakers need to understand the ripple impact of these changes on patients and the health care community in our state.

"As Michigan's watchdog for policyholders and accident victims, it is important to gather this information, especially as coronavirus is still spreading," Hutchings said. "The cuts to home-based, family-provided care impacts not only current accident victims, but also anyone who needs care in the future. We will continue to fight to ensure that these vulnerable Michiganders receive the access to the care they need."

Please see an additional fact sheet on the survey here (</s/Attendant-Care-Fact-Sheet.pdf>).

 (<https://www.facebook.com/sharer/sharer.php?u=https%3A%2F%2Fprotectnofault.org%2Fnews%2FCPAN-SURVEY-FINDS-VAST-MAJORITY-OF-MICHIGAN-ACCIDENT-VICTIMS-WHO-RECEIVE-IN-HOME-CARE-ARE-CONCERNED-ABOUT-THEIR-FUTURE>)

 (<https://twitter.com/intent/tweet?url=https%3A%2F%2Fprotectnofault.org%2Fnews%2FCPAN-SURVEY-FINDS-VAST-MAJORITY-OF-MICHIGAN-ACCIDENT-VICTIMS-WHO-RECEIVE-IN-HOME-CARE-ARE-CONCERNED-ABOUT-THEIR-FUTURE&text=>)



NEXT

Statewide Business Survey Finds New No-Fault Fee Schedule Will Have Devastating Impact on Services, Jobs, and Patients
(</news/statewide-business-survey-finds-fee-schedule-impact-on-services-jobs-and-patients>)

Protecting Michigan's Auto Insurance Promise



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Protecting Michigan's Auto Insurance Promise and fighting for auto accident victims' right to recover for nearly two decades.





Home-Based Attendant Care Survey Findings: At-A-Glance

Total responses: 568

Most accident victims in Michigan who receive in-home care receive it from family members or loved ones.

- 73.62% provide attendant care services to a motor vehicle accident victim that they knew or had a relationship with prior to the victim's accident.
- The majority of survey respondents (55.79%) provide attendant care services to a victim that needs 24/7 attendant care.

These victims will be severely impacted by the new 56 hour per week cap on attendant care services, which will be disruptive to their care.

- 92.31% are concerned that the services they provide are going to be affected by the 56 hour per week limitation.
- "I had to quit my job to take care of my daughter. I am now 64 years old and have been out of the job force for 14 years. What am I supposed to do to take care of both of us now?"
- "No one else will understand how to deal with my sister who has a traumatic brain injury... they don't have a program for adult daycare around here, she has needed 24/7 safety and supervision since her car accident in 1994."

At a time when more accident victims and their families will need to look to agencies to help them provide care, many will be forced to shut their doors due to the 45% reimbursement cut in the new fee schedule.

- 91.04% are concerned that the rate they are paid for attendant care services is going to be reduced or limited by the fee schedule.
- "The agency notified us that they may not be able to provide the extra help we need... I have no idea how we can care for 24 hours a day and only receive 56 hours of pay... I can't find even any openings in foster care..."

This is a crisis of care: 81.43% are concerned that the services they receive are going to be affected by the 56 hour per week limitation.

EXHIBIT 6

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EISENHOWER CENTER: A Neurorehabilitation Program**ADMISSION AGREEMENT**

THIS ADMISSION AGREEMENT is entered into as of this 13 day of November, 2019 by and between EISENHOWER CENTER (the "Center") and Phil Krueger (the "Client") and Ron Krueger, the client's guardian, conservator, representative, next-of-kin, and/or responsible party as appropriate (all of which may be collectively referred to in this Agreement as "Responsible Party") in connection with the Financial Agreement, Private Payment and/or Discharge Agreements (as applicable) and the Consent and Release forms, all of which are incorporated into this agreement by reference.

Understanding that the client wants to be admitted to the neurorehabilitation program (the "Program") offered by the Center and more particularly described in the Center's Client Handbook (the "Handbook"), which is incorporated by reference and made part of this agreement; and

Understanding that the Client and the Center want to specify the terms and conditions of the Client's participation in the Program; and

Understanding that the Client has been given a copy of the Handbook, which described the policies, procedures, and obligations of the Center and the Client and his/her Responsible Party; and

Understanding that the Client and his/her Responsible Party have read the Handbook, as well as certain Center Policies and Procedures and other materials of concern to them and have had an opportunity to fully discuss their questions and concerns with a representative of the Center;

NOW THEREFORE, in consideration of promises, mutual covenants, and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Client, the Responsible Party and the Center hereby agree as follows:

1. The Center agrees to develop for, and in conjunction with, the Client an individualized service plan designed to meet the Client's independent living, psycho social and vocational goals and to maximize the Client's potential. In this agreement this service plan will be referred to as the "plan". The Client's plan will be developed in the following way:

- (a) There will be an initial evaluation period during which the Center staff will evaluate the Client's status and potential, analyze the Client's status and potential, analyze the Client's goals and work with the Client to develop an individualized service plan designed to meet the Client's goals and needs.
- (b) The Client's Plan will set specific criteria for progress and will specify the intervals at which formal reviews of the Client's progress will be made to the Client and to the Third Party Payer, if and as applicable.
- (c) At the end of the initial evaluation period, the Client, the Responsible Party, the Client's Program Coordinator and other applicable rehabilitative staff will meet to discuss the Plan and the goals and priorities developed and set in it. At this meeting, the anticipated completion date may be adjusted from time to time based upon the Client's progress as discussed at the periodic reviews specified in of the Client's Plan. The Client and his/her guardian, if applicable, each will be required to sign a copy of the Client's Plan indicating understanding and approval of it. The signed copy will be retained by the Center with the Client's records.

2. Programs, services, classes and training tasks will be conducted according to the Center's schedule and the Client's Plan. If a non-resident, the Client agrees to arrive at the Center on a timely basis or, in cases where transportation is provided, to be at the designated location at the designated time for transporting. The Client agrees to attend in a regular and timely manner all classes, activities and tasks in or to which he/she is enrolled.

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ADMISSION AGREEMENT p. 2

3. If the Client leaves the Center's premises without permission, the Center will try to notify the Client's Responsible Party and may also notify the local police, after the discovery by the Center of the unauthorized absence if, in the opinion of the Center, such notification is appropriate. In the event that the Client is given permission to leave the Center's premises for a specified time period and is late in returning to the Center, the Center will first attempt to locate the Client at the destination specified in the sign-out log and, if unsuccessful in so locating the Client, the Center may attempt to notify the Client's Responsible Party and may also notify the local police if, in the opinion of the Center, such notification is appropriate. The Client and his/her Responsible Party agree to update family information in a timely manner so that the appropriate persons may be contacted in the event of an emergency.

4. If the Client is taking any prescribed medication, the Client or his/her Responsible Party must inform the Director of the Center and the Client's Program Coordinator of such fact on the date he/she is admitted or returned to the Program from an approved leave of absence and must furnish the Center with written prescriptions and instructions from the Client's physician concerning administration of his/her medications. Unless otherwise agreed upon by the Center and the Client, all medications must be deposited for safe-keeping with the Center.

The Client must report to the location specified by the Center at times during the day as he/she is required to take medication and is expected to self-administer all medications under staff observation.

5. Depending upon the Client's assessed level of functioning, in accordance with the Handbook, the Client may maintain a bank account, and/or may keep available to him/her, such sums of money as specified in the Handbook. The Client may be required to place in the Center's safe any valuables maintained on the Center's premises and with respect to such sums deposited with the Center, all transactions will be fully documented. The Center assumes no responsibility for any sums retained by the Client and not deposited with the Center.

6. The Client and his/her Responsible Party acknowledge that physical contact between the Client and the Center's personnel is sometimes necessary in connection with the Client's care at the Center, including but not limited to personal care, behavioral management and/or administration of treatment ordered by the Client's physician; and the Client and his/her Responsible Party hereby consent to such contact.

7. The Client and his/her Responsible Party acknowledge that the Client may require routine medical care and treatment while residing at the Center and hereby consent to the Client's referral to a primary care physician for medical care and treatment. The Client, the Responsible Party and the Center agree that the Client may choose another physician or additional physicians at any time in consultation with the Center.

8. The responsibilities of each party to this Agreement are as set forth herein and in the Handbook. The Client agrees to abide by all rules and regulations adopted by the Center. Uncooperative, disruptive, insubordinate or abusive behavior or behavior which violates the Center's Rules may constitute grounds for program changes or other appropriate action, including expulsion from the Center.

9. The Center disclaims all liability for injuries of any kind sustained by the Client on the Center's premises, except such injuries as are caused by the negligence of the Center or its employees.

10. The terms and conditions of payment of fees and charges, are as described in the Financial Agreement attached hereto and made a part hereof. If fees and charges are not paid when due, the Client will be required to withdraw from the Program and the Center. The Client and his/her Responsible Party understand and agree that if the Center does not receive payment from the Third Party Payer(s) listed in the Financial Agreement, the Client and other signatories on his/her behalf are personally responsible for the payment of the Center's charges, including but not limited to ancillary services and materials not covered in the base rate or fee-for-service rate schedules.

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ADMISSION AGREEMENT p. 3

11. The Client and his/her Responsible Party and family understand and acknowledge that the Center is not a hospital or medical facility and therefore cannot itself provide acute medical care of skilled nursing facility services.

12. The Client and his/her Responsible Party and family represent that they have been provided the opportunity to ask questions about the Program and that they have entered into this Agreement freely and with a full understanding of the risks and benefits of the Program. The Center or the Client may discontinue the Program or the Client's participation in it at any time upon reasonable notice to the other party subject only to the requirements of applicable law.

13. This Agreement, together with the Financial Agreement, Private Payment and/or Discharge Agreements, the Client Handbook and the Consents and Releases signed this day, constitute the whole Agreement between the Client, the Responsible Party (including the Client's guardian, conservator, representative, next-of-kin and/or responsible party, as applicable) and the Center; and no representations, whether oral or written made before this Agreement was signed shall have any further force or effect.

14. In this Agreement, references to a singular shall be construed to include the plural and the plural the singular; and references to one gender shall be construed to include all genders.

IN WITNESS THEREOF, the undersigned have set their hands and seals as of the date first above written.

By: Chad Brendtke

The Center: **EISENHOWER CENTER**

Its: Program Coordinator

The undersigned certify that they have read and received a copy of this Agreement including the Financial Agreement, Private Pay and/or Discharge Agreements, the Client Handbook which includes the Statement of Client's Rights and Grievance Procedures, and acknowledge, accept, and agree to all the terms thereof.

Client Signature

Phil Krueger

Client Name (print)

The Client's Next of Kin (state Relationship)

Ron Krueger

The Client's Guardian/Representative/Trustee
(circle appropriate title)

The Client's Next of Kin (print)

Ron Krueger

The Client's Guardian/Representative/Trustee
(print)

**EISENHOWER CENTER: A Neurorehabilitation Program
FINANCIAL AGREEMENT**

This Financial Agreement is entered into this 13 day of November, 20 19 by and between EISENHOWER CENTER (the "Center") and Phil Krueger (the "client") and Ron Krueger the Client's guardian, conservator, representative, next of kin, and/or responsible party (collectively referred to in this Agreement as "Responsible Party") in connection with the Admission Agreement, Private Payment and/or Discharge Agreements (as applicable) which are incorporated into this Agreement by reference.

WHEREAS, the Client wants to be admitted to the Center on the terms and conditions set forth in the Admission Agreement; and

WHEREAS, the Client has told the Center that all fees for the Client's care at the Center, including room and board, therapy and other charges will be paid, in the first instance, by Citizens Insurance Imp on behalf of the Client; and

WHEREAS, the Center and the Client want specifically to state their Agreement about payment of those fees and charges.

NOW THEREFORE, in consideration of promises, the mutual covenants, and agreements herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Source of Payment:

The Client and his/her Responsible Party state that the following sources of payment will pay for the Client's care and services while at the Center. The Client and his or her Responsible Party understand that timely and accurate information regarding sources of payment is very important to the Center in entering into this agreement.

(i) Self Pay: NA

Name of Representative or

Responsible Party: _____

If Trust, Name of Trust, Trustee and Bank:

Address: _____

Telephone Number: _____

(ii) Primary Insurance Company: Citizens Insurance Impact Medical

Insured Person's Name: Ron Krueger Soc. Sec #: _____

Policy No.: 25-90000439 Identification No.: _____

Agent or Adjuster: Tyran Davis

(iii) Secondary Insurance Company: Medicare

Policy No.: 317715791-11 Identification No.: _____

Agent or Adjuster: _____

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FINANCIAL AGREEMENT p. 2

(iv) Medicaid/Veteran's Admin (attach copy of card):

Identification No.: _____

Regional Office: _____

(v) Other: _____

2. The Client and his/her Responsible Party agree as a condition of Client's receiving services at the Center to notify the Center immediately if he/she knows of any changes in the information given above.

3. The base rate or fee-for-service rates for the services to be provided by the Center are subject to change after fourteen (14) days' prior written notice to the Client and the Client's Responsible Party. Payment at the applicable rates shall be due within 10 days of receipt of bill. The Client and the Client's Responsible Party agree that they shall at all times be individually responsible, as well as jointly responsible, for payments due to the Facility, and for interest on late payments at the rate of one and one-half percent (1-1/2%) per month, together with attorney fees, costs and expenses associated with collection of such payments.

4. Notwithstanding the provisions of Paragraph 2, if services to the Client are paid for by an insurance company, Medicaid, the Veterans Administration or other third party payer (the "Third Party Payer"), financial responsibility for payments due to the Facility shall be governed by the contract between the Center and the Third Party Payer, provided, however that amounts due from any co-insurance deductible, income budget payments, or for non-covered services shall remain the responsibility of the Client or the Client's Representative or Responsible Party.

5. The Client and the Client's Responsible Party acknowledge and agree that in the event payments for fees and charges are not made to the Center when and as due, the Client will be required to withdraw from the Facility; and the Client and the Client's Responsible Party agree to arrange for the Client's prompt return home or relocation in the event of withdrawal or discharge for non-payment of fees and charges. The Client and his/her Responsible Party agree to remain financially liable for Services rendered through the day that the Client is discharged.

6. If the Client withdraws from the Center, either voluntarily or involuntarily, or is discharged, all advance payments will be refunded by the Facility to the Client or the Client's Responsible Party within thirty (30) days provided, however, that unpaid charges, including but not limited to applicable charges for leaves of absence, hospital stays, etc., if any, due from the Client or the Client's Responsible Party will be deducted from such advance payments prior to refund.

7. This Agreement together with the Admission Agreement and any other agreement signed between the same parties on the same date as this Agreement constitutes the entire Agreement between the Center and the Client and supersedes any prior written or oral understanding between the parties with regard to the matters contained herein.

Sign and sealed this 13 day of November, 2019.

Client Signature

Phil Krueger

Client Name (print)

Center

Responsible Party Signature

Ron Krueger

Responsible Party (print)

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EISENHOWER CENTER: A Neurorehabilitation Program**ASSIGNMENT OF BENEFITS**Client's Name: Phil Krueger Client ID No. _____

In consideration of services rendered or to be rendered to the above-named Client, the undersigned hereby authorizes payment directly to Eisenhower Center ("Center") for services rendered by or through the Center, of any and all insurance benefits, as well as extended benefits, if applicable, to which the above-named Client may be entitled, not to exceed the Center's charges for such services at the rate set forth in the Financial Agreement, as duly revised.

The undersigned hereby authorizes the Center to file claims for such benefits in the Client's behalf so that the Center may realize payment of its charges in a timely manner. The undersigned understands that if the Center does not receive payment from the insurer, the undersigned is personally responsible for the payment of the Center's charges, as stated in the Admission Agreement and the Financial Agreement.


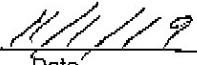
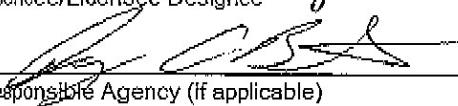
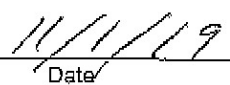
Ron Krueger 11/1/19
Client or Responsible Party Signature Date

Ron Krueger
Client or Responsible Party Name (print)

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<input type="checkbox"/>	I agree to additional services according to the fee schedule contained in attachment . Such additional services may include but are not limited to:
<input type="checkbox"/>	If applicable, I have read the attachments relating to fees and agree with the terms and conditions established therein, I further acknowledge that additional services are available for additional fees as described in attachment

LICENSEE/LICENSEE DESIGNEE CHECK ALL BOXES BELOW THAT APPLY:

This home is licensed by the Department of Human Services to provide foster care to adults.	
<input checked="" type="checkbox"/>	I have provided the resident with a copy of the AFC Resident Rights and agree to respect and safeguard these rights.
<input checked="" type="checkbox"/>	I have provided the resident with a copy of the home's discharge policy and procedures and agree to follow them.
<input checked="" type="checkbox"/>	I have provided the resident with a signed copy of the home's refund agreement.
<input checked="" type="checkbox"/>	I agree to provide personal care, supervision, and protection, in addition to room and board, and to assure the availability of transportation services as indicated in this agreement, the resident's written assessment plan, and the resident's health care appraisal, as defined in the act.
<p>A copy of this resident care agreement is required to be provided to the resident's guardian or resident's designated representative and also be maintained in the resident's file at the AFC home.</p> <p>Attachments to this Resident Care Agreement and any other agreements or contracts with this licensee may not have been reviewed and/or approved by the department. If any contractual provision contained in an attachment conflicts with the Adult Foster Care Facility Licensing Act and/or administrative rules, the act and rules would prevail and the specific provision is not binding.</p>	
SIGNATURES	
Resident	Date
Resident's Designated Representative (if applicable)	Date
 Licensee/Licensee Designee	 Date
 Responsible Agency (if applicable)	 Date
<p>Compliments, comments and/or complaints about this licensed facility can be made by calling the licensing consultant, or at www.michigan.gov/afchfa. Additional information regarding adult foster care is also available at this website.</p> <p>Complaints (only) can also be made by calling toll-free: 1-866-856-0126.</p>	
AUTHORITY: 1979 PA 218 COMPLETION: Mandatory PENALTY: Violation of Adult Foster Care Administrative Rule	Department of Human Services (DHS) will not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, sex, sexual orientation, gender identity or expression, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to a DHS office in your area.

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SERVICE DESCRIPTION AND COST GUIDE INPATIENT/OUTPATIENT SERVICES



Neuro-Behavioral

Our renowned neuro-behavioral programs focus on treating behavioral concerns which interfere with clients reaching their goals. This program specializes in addressing verbal/physical aggression as well as other unsafe behaviors such as substance abuse, elopement, and sexual disinhibition.

Neuro-Medical

Offering greater staff support for clients who require a more intensive level of physical or medical care.

Suites

Our suites, located on our Ann Arbor campus, come complete with barrier-free access to a private bed and bath, living room and an accessible kitchenette.

Home Model Group Homes

Our geriatric care group home in a quiet neighborhood next to a local park, has programming tailored to meet the needs of the more mature client. Our Upper Peninsula group home, includes private rooms in a tranquil rural setting. Our Manchester group homes are located on a 62-acre working farm. Our Jacksonville, Florida group homes are just minutes away from the beach.

Supported Apartments

Offer the autonomy and privacy of a community-based apartment setting with 24-hour, on-site support.

Semi-Independent Living (SIL)

A program offering more autonomy than our other programs, designed for people who have demonstrated the ability to manage most day-to-day concerns on their own, but who still benefit from the structure of a program and daily support.

Inpatient Staff Supported Programs per diem <i>See pg 2 & 3 included Core Services</i>	Neuro-Behavioral	Transitional	\$545	We provide a spectrum of staff-supported inpatient rehabilitation options, tailored to meet the needs of each client as they progress through their rehabilitation. As part of our programming, we offer a wide variety of Core Services. See the included Core Services and descriptions listed on pg 2 and 3.
		Long-Term	\$519	
	Neuro-Medical	Transitional	\$545	
		Long-Term	\$512	
	Suite	Transitional	\$545	
		Long-Term	\$506	
	Supported Apt	Transitional	\$383	
		Long-Term	\$375	
	Home Model	Semi-Independent	\$255	
		Transitional	\$468	
		Long-Term	\$432	

Any leave of absence from our inpatient program for over 24hrs will be charged at 69% of the per diem rate.

Residential Locations

Ann Arbor Campus
3200 E. Eisenhower Parkway
Ann Arbor, MI 48108

Manchester Campus
8735 M-52
Manchester, MI 48158

Eisenhower Jacksonville Group
2671 Huffman Blvd.
Jacksonville, FL 32246

Encore House
2890 Easy Street
Ann Arbor, MI 48108

Paradise House
45224 Paradise Road
Chassell, MI 49916

To learn more about us or to make a referral please contact our Admissions Department.

Referral Sources: Self Referral, Guardian, Case Mgr, Family, Friends, Law Firms, Physicians, Funding Sources, VA, and others.
734-645-2324 cell 800-554-5543 x273 734-794-9808 fax info@eisenhowercenter.com www.eisenhowercenter.com

Hours of Operation: Facility 24hrs/day, On-Call 24 hrs/day, Admin and Business Operations 9am-5pm M-F

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SERVICE DESCRIPTION AND COST GUIDE INPATIENT/OUTPATIENT SERVICES



Therapy, Supervision, Job Coaching, Day Treatment and Other Services:

Our therapists provide assessment and interventions while working with the client's physician, family and treatment team. These services are tailored to your needs and can be provided on-site, and some from the comfort of your own home.

			Inpatient	Outpatient	In-home
Individual Services Per Hour	Physical Therapy	\$216	X	X	X
	Aquatic Therapy	\$216	X	X	
	Occupational Therapy	\$216	X	X	X
	Speech and Language Pathology	\$216	X	X	X
	Psychology/Counseling	\$216	X	X	X
	Support Staff (Direct Supervision)	\$22	X	X	X
	Support Staff (Non-Direct)	<i>Core Service</i> n/a	Included		
	Substance Abuse	<i>Core Service</i> \$216	Included	X	
	Recreational Therapy	<i>Core Service</i> \$102	Included	X	
	Music Therapy	<i>Core Service</i> \$102	Included	X	
	Dietary Counseling	<i>Core Service</i> \$102	Included	X	
	Transportation	<i>Core Service</i> IRS Rate	Included		
	Program Coordination	<i>Core Service</i> n/a	Included	X*	
	Nursing and Health Education	<i>Core Service</i> n/a	Included		
	Behavioral Therapy	<i>Core Service</i> \$146	Included	X	X
	Job Coaching	<i>Core Service</i> \$22	Included	X	X
Therapy Groups Per Hour	Recreational Therapy	<i>Core Service</i> \$52	Included	X	
	Music Therapy	<i>Core Service</i> \$52	Included	X	
	Behavioral Therapy	<i>Core Service</i> \$73	Included	X	
	Substance Abuse	<i>Core Service</i> \$108	Included	X	
	Physical Therapy	\$108	X	X	
	Occupational Therapy	\$108	X	X	
	Speech and Language Pathology	\$108	X	X	
	Psychology/Counseling	\$108	X	X	
Day Treatment Per Hour	Day Treatment/Vocation Day Treatment Program	\$48		X	

Our Day Treatment Programs provide a structured day of social, leisure and/or vocational activities that can be tailored to the needs of the individual. Clients participating in the Vocational Program receive a paycheck while they are building employment skills. Lunch is also included with a full day program.

*Outpatient Program Coordination included if receiving 2 or more services.

All rates subject to change. Prices remain for a minimum of 90 days after initiation of services.

Accepted Funding Sources

Inpatient/Outpatient: Auto insurances, AL-TBI, Veteran's Choice, Workers Compensation, Veteran's Administration MOU, CMH, CLS, private funders, and trust funds. Outpatient Only: BCBS, BCN, Medicare Part B, Bluecaid, Bluecare Advantage, Cigna w/HAP (PT Only), Medicare Plus Blue, BCBS Complete. (Some insurances may not be accepted at our Florida location.) Other insurances may be accepted as an out of network provider. Contact our Admissions Department or your insurance provider for insurance verification and eligibility. Eisenhower Center and Eisenhower Jacksonville Group accept primarily individuals over the age of eighteen, but can accept minors with special dispensation from the State of Michigan.

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SERVICE DESCRIPTION AND COST GUIDE INPATIENT/OUTPATIENT SERVICES



What integrated "Core Services" are included with our per diem rates?

Core Services are intended to ensure each client in our program has access to a wide variety of services to support them in their rehabilitation goals. As each client has their own unique needs, the amount of support available from each of these programs is tailored to meet those needs. Our core services make us among the most unique and comprehensive treatment centers in the U.S. Each client will receive program coordination, support staff, nursing and health education, and behavior analysis as part of the per diem rate.

Program Coordination

Internal professional who coordinates treatment, communicates with team members and directs rehabilitation programming goals with input from client, family, guardian, physicians, etc.

Supervision (excludes Direct Supervision)

Trained rehabilitation staff are on each unit to supervise and support each client. Each client's supervision level is reviewed by their team weekly and changed as clinically appropriate. Direct supervision provided at additional cost.

Nursing/Health Education

Our nurses are stationed on each unit and are also available on-call after business hours. They attend medical appointments, coordinate with physicians, and monitor each client's health status. In addition to the coordination of medical care, our nursing staff also provides education and support to clients about things like disease management, illness/STD prevention, and nutrition.

Behavior Analysis

Behavior Analysts are also positioned on each unit. They specialize in engaging to prevent and replace counterproductive behaviors (e.g. verbal and physical aggression) with more socially acceptable behaviors, through data collection and implementation of individualized behavior protocols based on proven scientific paradigms. Behavior analysts also instruct staff on crisis intervention/conflict resolution.

To provide the greatest spectrum of support and services for the care, recovery or rehabilitation of our clients, we also offer other integrated services with our program at no additional cost.

Substance Abuse Prevention

This licensed program is designed to offer therapy, education, and support with consideration of the special needs of each person. Our program utilizes the 12-step approach to recovery and includes on-campus meetings as well as drug screening, support by trained staff, and the utilization of community AA/NA meetings.

Supported Employment

Returning to work, school, or meaningful volunteer opportunities is a vital part of our rehabilitation program. We provide a wide range of employment opportunities, ranging from sheltered workshops to assistance obtaining and maintaining community employment. Clients are assisted with resume building, interview skills, job searching, and with communication to their employer.

Recreational Therapy

Our Certified Therapeutic Recreation Specialists explore unique leisure activities and adapt activities for those with physical disabilities. Recreation Therapy provides opportunities to increase social skills and build confidence needed to live independently, while simultaneously reducing symptoms of anxiety and depression. There are 2 outings offered to all residential clients per day.

Music Therapy

Our fully credentialed music therapists use music and its elements to help clients meet non-musical goals, such as improving memory, motor skills, self-expression, and executive functioning tasks. Live or recorded music is used to motivate clients. Music therapists are credentialed by the Certification Board for Music Therapists.

The Enrichment Center

Set on a working hobby farm, clients can spend their time on their unique interests and abilities while learning valuable vocational skills. All activities are accessible for our clients regardless of mobility and physical challenges. Clients participate in planning and development, marketing, inventory, and sales. All residential clients have access to work, play and explore.

Transportation

Provided for inpatient clients within 60 miles of the facility for recreational outings, family visits, medical appointments, and more. Outpatient travel is reimbursed at current IRS rates.

Substance abuse prevention program recipients have rights protected by state/federal law and promulgated rules. For information, contact the program's representative of the Recipient Rights Coordinator, Michigan Department of Community Health, Division of Licensing and Certification Substance Abuse Licensing Section PO Box 30664, Lansing, MI 48909 517-241-1970. Eisenhower Center/Eisenhower Jacksonville Group does not discriminate against any person on the basis of race, color, national origin, disability, or age; in admission, treatment, participation in its programs, services and activities or in employment. For information about this policy, contact Tim Mucha, Compliance Officer at 734-677-0070.



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AFC – RESIDENT CARE AGREEMENT
Michigan Department of Licensing and Regulatory Affairs
Adult Foster Care Licensing and Home for the Aged Licensing

Resident Name: _____	Name of Home: _____	License Number _____
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This agreement to provide adult foster care for (resident's name) _____ is made between (licensee name) _____ and (resident/resident's designated representative) _____.

- This agreement is required to be completed at the time of a resident's admission, reviewed annually, and updated as needed to reflect changes.
- This agreement is to be completed by the licensee in cooperation with the resident or his/her designated representative and the responsible agency, if applicable. **Designated representative means** that person or agency which has been granted written authority, by a resident, to act on behalf of the resident or which is the legal guardian of a resident. **Acceptable written authority includes** orders of guardianship or conservatorship, powers of attorney, durable powers of attorney, or other documents executed by the resident that specify the relevant scope of authority. If a resident's designated representative signs this agreement, a copy of the signer's written authority is to be maintained in the resident's file at the AFC home.
- A resident shall be provided care and services as stated in this resident care agreement and the resident's assessment plan.

This agreement constitutes the fee policy statement required by Family Home Rule 400.1407(11), if applicable.

RESIDENT OR DESIGNATED REPRESENTATIVE CHECK ALL BOXES BELOW THAT APPLY:

- ☐ I have received a copy of the house rules (if applicable) and agree to follow them.
- ☐ I agree to provide all required resident information to the licensee, including a current health care appraisal, at the time of admission, annually and as the resident's condition changes.
- ☐ I agree to participate in all required fire and emergency drills, as determined by BCHS and the licensee.
- ☐ I have signed and received a copy of the home's refund agreement. (GROUP HOMES ONLY)
- ☐ I have received a copy of the home's discharge policy and agree to follow those procedures. (GROUP HOMES ONLY)
- ☐ I agree ☐ I do not agree to receive assistance in bathing, dressing, or personal hygiene by a staff member of the opposite sex, if a member of the same sex is not available.
- ☐ I agree ☐ I do not agree to entrust the following to the license for safekeeping, if this option is available:

☐ Funds ☐ Valuables (specify) _____
- ☐ I agree to have the licensee manage funds and account for financial transactions on my behalf. Expenditures of my personal funds over the amount of \$ _____ require my prior written approval.
- ☐ I agree to pay the licensee the agreed upon fees for the services designated.
- ☐ I agree to pay the basic fee of \$ _____ on a _____ basis.

daily, week or monthly

The basic fee includes the following basic services:

and are further described in the resident's assessment plan, and attachment _____, if applicable.

- ☐ The basic fees do not include any transportation services.
- ☐ The basic fees include the following transportation services.

- ☐ Transportation fees are charged as follows:

_____ and are further explained in attachment _____, if applicable.

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☐ I agree to additional services according to the fee schedule contained in attachment _____. Such additional services may include but are not limited to: _____

☐ If applicable, I have read the attachments relating to fees and agree with the terms and conditions established therein, I further acknowledge that additional services are available for additional fees as described in attachment _____.

BY MY SIGNATURE BELOW, I AFFIRM THAT:

This home is licensed by the Department of Licensing and Regulatory Affairs to provide foster care to adults.
 I have provided the resident with a copy of the AFC Resident Rights and agree to respect and safeguard these rights.
 I have provided the resident with a copy of the home's discharge policy and procedures and agree to follow them. (AFC Group Homes only.)
 I have provided the resident with a signed copy of the home's refund agreement. (AFC Group Homes only.)
 I agree to provide personal care, supervision, and protection, in addition to room and board, and to assure the availability of transportation services as indicated in this agreement, the resident's written assessment plan, and the resident's health care appraisal, as defined in the act.

A copy of this resident care agreement is required to be provided to the resident's guardian or resident's designated representative and also be maintained in the resident's file at the AFC home.

Attachments to this Resident Care Agreement and any other agreements or contracts with this licensee may not have been reviewed and/or approved by the department. If any contractual provision contained in an attachment conflicts with the Adult Foster Care Facility Licensing Act and/or administrative rules, the act and rules would prevail and the specific provision is not binding.

SIGNATURES

Resident	Date
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Resident's Designated Representative (if applicable)	Date
------------------------------------------------------	------

Licensee/Licensee Designee	Date
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Responsible Agency (if applicable)	Date
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Compliments, comments and/or complaints about this licensed facility can be made by calling the licensing consultant, or at www.michigan.gov/afchfa. Additional information regarding adult foster care is also available at this website.

Complaints (only) can also be made by calling toll-free: 1-866-856-0126.

AUTHORITY: 1979 PA 218
 COMPLETION: Mandatory
 PENALTY: Violation of Adult Foster Care Administrative Rule

LARA is an equal opportunity employer/program.

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