



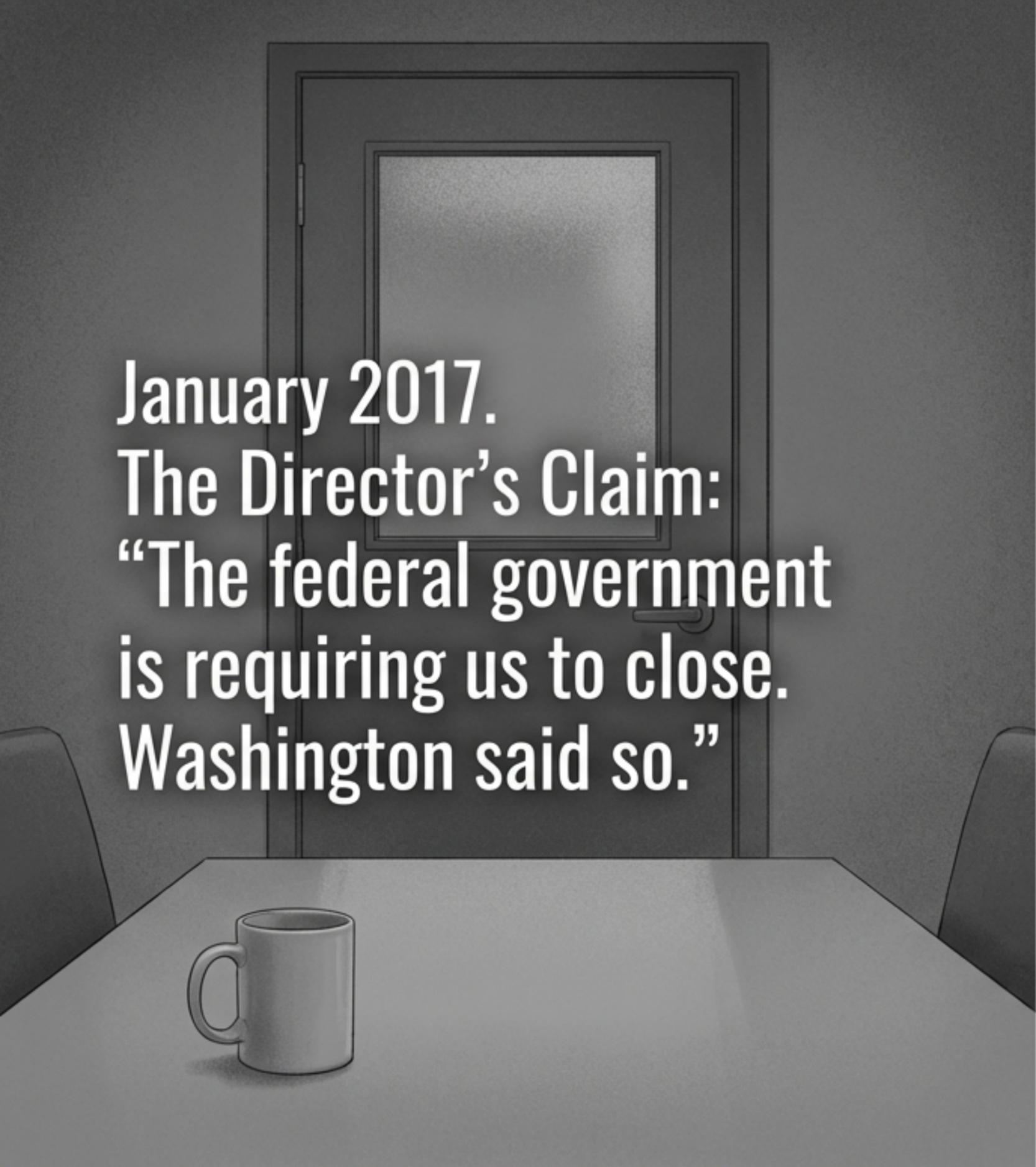
Government of the
February 12,



The Federal Rule Didn't Kill Michigan's Day Programs—State Choices Did.

Policy Analysis • State Comparisons • HCBS Settings Rule

Part of the
OasisForAutism.com
"At-A-Glance"
PDF Series

A dark, grayscale illustration of a room. In the center is a door with a window. In the foreground, a table holds a single mug. The text is overlaid on the left side of the image.

January 2017.
The Director's Claim:
"The federal government
is requiring us to close.
Washington said so."

**Here is what they
won't tell you:
She was wrong.**

Michigan officials were either catastrophically mistaken or deliberately misleading.

We have the receipts to prove it.

MICHIGAN'S CLAIM

Closures are mandatory under the HCBS Settings Rule.

THE REALITY

CMS Official Guidance (March 2019):

“The HCBS settings rules do not prohibit all facility-based day programs.”

They established criteria for compliance, not elimination.
Michigan heard “criteria” and chose “closure.”

Heightened Scrutiny \neq Disqualification



Scrutiny



Disqualification

It simply means **“Verify Compliance.”** It is a check, not a ban.

The Three Required Outcomes:



Integration

(Access to community)



Choice

(Meaningful alternatives)

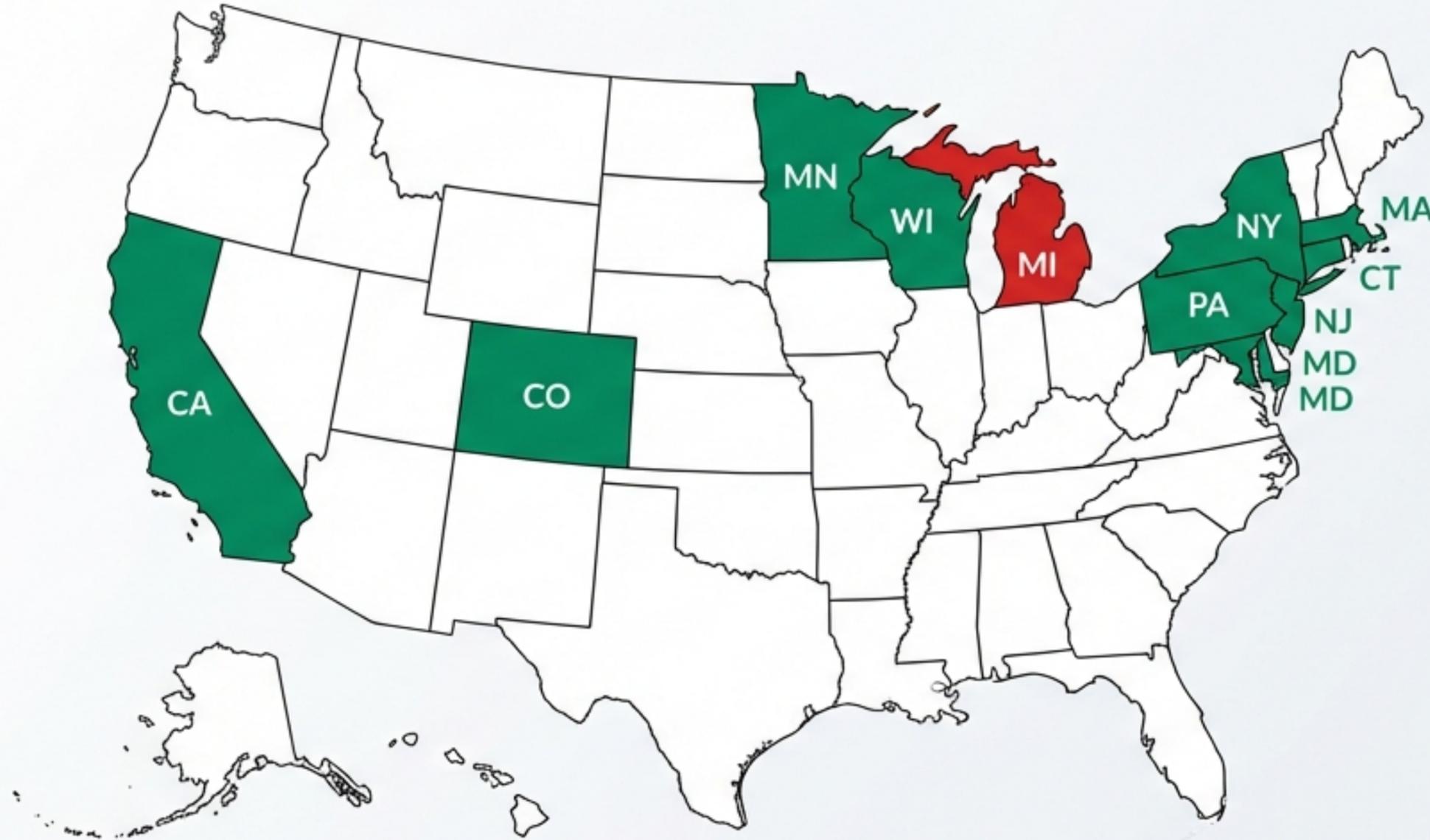


Autonomy

(Individual control)

It requires specific outcomes, not specific settings.

If the Federal Rule Banned These Programs, Why Do They Still Exist in the Best States?



9 out of the top 10 performing states retained their facility-based day programs.

MA
CO
PA
NJ
CT
MD
NY
CA
MN
WI

Other states chose preservation. **Why did Michigan choose elimination?**

Massachusetts: The Gold Standard

Success Dashboard

524

Settings Assessed
0 Inherent Failures

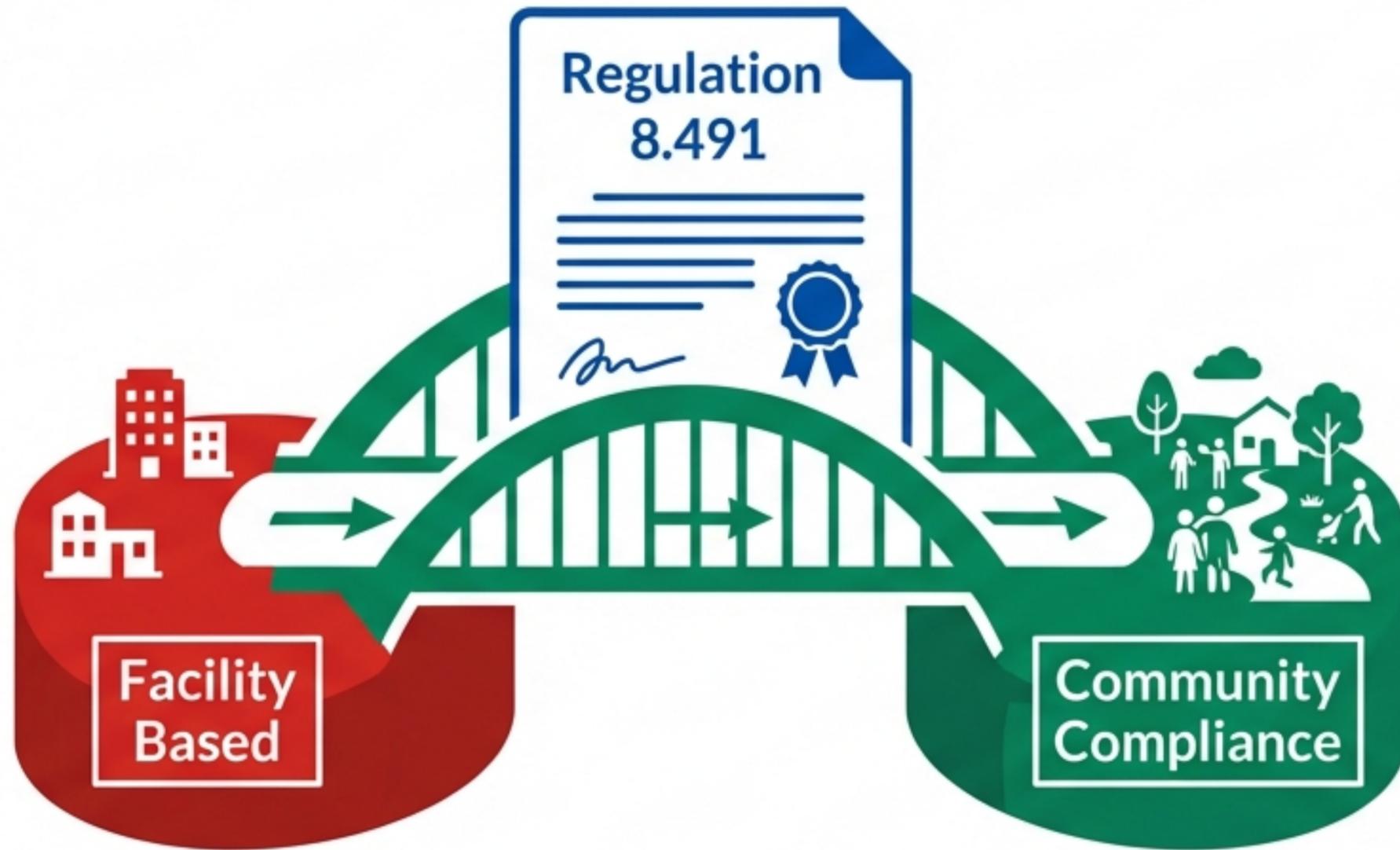
\$69.00

Reimbursement Rate Per Hour



They didn't use magic. They used political will.
Compliance was achieved through investment, not elimination.

Colorado: The Explicit Pathway



- Colorado didn't look for loopholes. They **built a bridge.**
- Created Regulation 8.491 to establish **explicit compliance standards.**
- Result: A transparent, documented **pathway for programs to succeed.**

“The default assumption was compliance and preservation.”

Pennsylvania: Acknowledging Reality

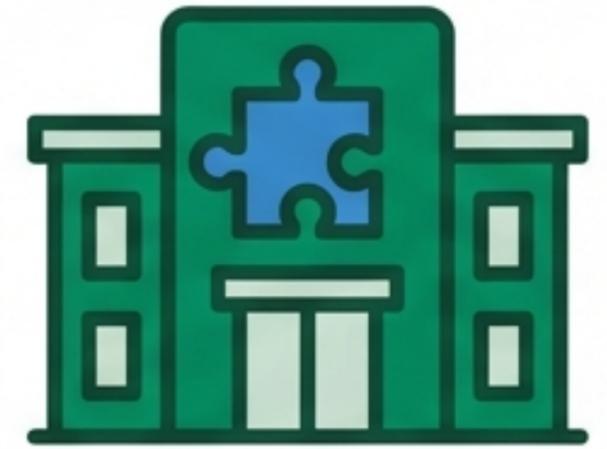
The Adult Autism Waiver



Generic
Services

\$97,000

Annual Individual Cost Limit



Specialized
Infrastructure

Pennsylvania understood that Level 2 and Level 3 autism requires **specialized infrastructure**, not just **generic “community inclusion.”**

They funded **alternatives** while maintaining existing services.

The Michigan Choice: Rigidity & Elimination



47

National Rank: 47th

While 9 top states built pathways, Michigan dug a hole.

2015: MI begins closures

2019: CMS offers flexibility

2015: MI begins closures



2019: CMS offers flexibility



They ignored the flexibility to double down on the failure.

The Real Culprit: Managed Failure

Target Store Employee (\$) ~\$16.00/hr

Michigan DSP (\$) ↓ \$14.05/hr

You cannot require “Heightened Scrutiny”
compliance on poverty wages.

The Federal Rule didn't kill the programs.
The refusal to fund the workforce did.

Policy Choice Matrix

Policy Area	What Michigan Did	What Was Possible
Federal Flexibility	Ignored	Phased Compliance
Funding	Starved (\$14.05)	Invested (\$69+)
Compliance Support	None/Closure	Remediation/Assistance
	RESULT: Service Elimination	RESULT: Service Preservation

The Cost of a Choice



Felicia lost her program. Hundreds of adults with Level 2/3 autism lost structure, safety, and belonging.

This wasn't just administrative. It destroyed the only environments where they experienced genuine belonging.

Michigan chose differently. Then lied about having no choice.

Say This, Not That

They say: “Federal law required it.”

You say: “9 of the top 10 states kept their programs. Why couldn’t Michigan?”

They say: “Heightened scrutiny is too hard.”

You say: “Massachusetts passed 524 settings. Why didn’t we try?”

They say: “There’s no money.”

You say: “Target pays more than you pay DSPs. It’s a lack of priority.”

The Power Sits in Lansing, Not Washington



- **Stop accepting “Federal Law” as an excuse.**
- **Demand state-level solutions to state-created problems.**
- **Force them to show their work.**

Michigan can fix this. If we make them.

Sources & Documentation

- CMS HCBS Final Regulation (Jan 2014)
- CMS Informational Bulletin (March 2019)
- Colorado Regulation 8.491
- MA HCBS Settings Rule Compliance Report (2019)

About the Author

Jim is a father, researcher, and author of 'When The Bus Stops Coming'. He lives in Burton, Michigan.

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