

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

██████████,

Appellant

_____ /

Docket No. 2009-28260 SAS

Case No. ██████████

Load No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, appeared behalf of Appellant. ██████████ was present. ██████████, represented the Respondent ██████████.

ISSUE

Did the Respondent properly terminate Appellant's methadone treatment?

FINDINGS OF FACT

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

1. ██████████ contracts with the Department of Community Health and/or PIHP as a coordinating agency for substance abuse services for residents of ██████████ who reside outside the ██████████. (Exhibit 1, Page 1)
2. ██████████ contracts with ██████████ to provide substance abuse services. ██████████ contract with ██████████ does not include payment for residents of ██████████ who reside outside the ██████████. (Exhibit 1, Page 1)
3. Appellant is a ██████████ male and Medicaid beneficiary.
4. Appellant has a history of methadone use. (Exhibit 1, Page 8)

5. Appellant has received OMT (methadone treatment) through ██████████ “for a number of years.” (Exhibit 1, Page 8)
6. On ██████████ conducted a ██████████ site visit and discovered in Appellant’s file driver’s license information indicating he lived in the ██████████. (Exhibit 1, Pages 2-3)
7. On or after ██████████ notified ██████████ it was out of compliance and instructed to give to the Appellant a twelve-day advance termination notice. (Exhibit 1, Page 5)
8. On or after ██████████, the Appellant was given an Advance Action Notice, stating he would be terminated from the OMT program, starting with a tapering-off after 12 days. (Exhibit 1, Page 5.)
9. Appellant filed a Request for Administrative Hearing with the State Office of Administrative Hearings and Rules for the Department of Community Health on ██████████. (Exhibit 2.)
10. Appellant requested continued services until the outcome of this hearing and ██████████ granted a continuation until the outcome.
11. At the time of hearing the Appellant lives in ██████████, out of the catchment area of ██████████.

CONCLUSIONS OF LAW

The Medicaid program was established pursuant to Title XIX of the Social Security Act (SSA) and is implemented by 42 USC 1396 *et seq.*, and Title 42 of the Code of Federal Regulations (42 CFR 430 *et seq.*). The program is administered in accordance with state statute, the Social Welfare Act (MCL 400.1 *et seq.*), various portions of Michigan’s Administrative Code (1979 AC, R 400.1101 *et seq.*), and the state Medicaid plan promulgated pursuant to Title XIX of the SSA.

Subsection 1915(b) of the SSA provides, in relevant part:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 (other than subsection(s) 1902(a)(15), 1902(bb), and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C)) as may be necessary for a State –

- (1) to implement a primary care case-management system or a specialty physician services arrangement, which

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restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain medical care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary.

Under approval from the Center for Medicare and Medicaid Services (CMS), the Department (MDCH) presently operates a Section 1915(b) Medicaid waiver referred to as the managed specialty supports and services waiver. A prepaid inpatient health plan (PIHP) contracts (Contract) with MDCH to provide services under this waiver, as well as other covered services offered under the state Medicaid plan.

Pursuant to the Section 1915(b) waiver, Medicaid state plan services, including substance abuse rehabilitative services, may be provided by the PIHP to beneficiaries who meet applicable coverage or eligibility criteria. *Contract, Part II, §§ 2.1.1, p 23*. In this matter, ██████████ contracts with the Department of Community Health and/or PIHP as a coordinating agency for substance abuse services for residents of ██████████ who reside outside the ██████████. (Exhibit 1, Page 1) ██████████ contracts with ██████████ as a provider of substance abuse services. ██████████ contract with ██████████ does not include payment for residents of ██████████ who reside inside the ██████████. (Exhibit 1, Page 1)

The evidence in this case indicates Appellant has a history of received OMT (methadone treatment) through ██████████ “for a number of years.” (Exhibit 1, Page 8) On ██████████ conducted a ██████████ site visit and discovered in Appellant’s file driver’s license information indicating he lived in the ██████████. (Exhibit 1, Pages 2-3) On or after ██████████ notified ██████████ it was out of compliance and instructed to give to the Appellant a twelve-day advance termination notice. (Exhibit 1, Page 5) Respondent contends, however, that Appellant’s OMT was appropriately terminated because it cannot provide Medicaid-covered services outside its catchment area.

Appellant’s representative testified that Appellant had moved into ██████████ catchment area sometime after the date he provided his driver’s license verification but ██████████ did not have updated residency information in its file.

The Respondent testified that its termination decision was proper because it relied on the information it had at the time of the site visit. This Administrative Law Judge agrees and adds that jurisdiction for hearing is limited to determining whether, based on the information it had at the time of its termination decision, the decision was proper. ██████████ must provide Medicaid services in accordance with its DCH/PIHP contract terms, including location of residents served.

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In addition, the Appellant testified that he no longer lives in the [REDACTED] catchment area. For that reason this Administrative Law Judge cannot issue an order compelling Respondent to provide current services for Appellant.

The Respondent provided sufficient evidence that its determination to terminate from OMT was proper and in accordance with Department policy.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly terminated Appellant's outpatient OMT.

IT IS THEREFORE ORDERED THAT:

Respondent's decision is AFFIRMED.

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:



Date Mailed: 9/15/2009

***** NOTICE*****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision & Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.