STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

Appellant
_______________________/

Docket No. 2009-5370 CMH
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 . (Appellant) appeared and testified on her own behalf. , represented the Department's agent . , ; and , testified as witnesses for the Department.

ISSUE

Did the Department properly determine that Appellant did not meet the MDCH/CMHSP Managed Specialty Supports and Services Contract Medicaid service eligibility requirements for Medicaid-covered specialized mental health services?

FINDINGS OF FACT

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

1. The Appellant is a -year-old Medicaid beneficiary.

2. is a Prepaid Inpatient Health Plan (PIHP) under contract with the Michigan Department of Community Health (Department) to provide Medicaid covered services to Medicaid

beneficiaries who reside in the service area.

3. is an affiliate of (PIHP), a provider agency under contract with to provide Medicaid covered services for individuals in .

4. Appellant's mother requested an initial intake evaluation of Appellant to determine whether she qualified for Medicaid funded specialized mental health services through a CMH Service Provider (CMHSP). (Exhibit 1, p. 5)

5. On , a screener from completed an access and eligibility screening of Appellant to determine Appellant's eligibility for Medicaid-covered specialized mental health services. (Exhibit 1, pp. 4-12)

6. According to the clinical assessment completed on : Appellant did not have any problems in the areas of intellectual impairment, hobbies or interests or play or learning, activities of daily living, self direction, or personal hygiene or self-care; Appellant was moderately limited in the area of peer relationships or family relationships; Appellant did not have any problems with orientation, memory, attention, comprehension, or visual-motor, speech, language, or concrete thinking; Appellant did not have any conduct problems, other disruptive behaviors or paranoid ideation; Appellant had mild oppositional behavior; and Appellant was diagnosed with an adjustment disorder with mixed anxiety and depression. (Exhibit 1, p. 5)

7. determined that Appellant did not meet the clinical eligibility criteria for Medicaid-covered CMH services as a person with a serious mental illness, and that Appellant has coverage for any mental health services that she needs. (Exhibit 1)

8. After receiving notice of the CMH eligibility determination, Appellant's mother filed a hearing request on Appellant's behalf, and it was received on

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the

Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

> Title XIX of the Social Security Act, enacted in 1965, authorizes Federal grants to States for medical assistance to low-income persons who are age 65 or over, blind, disabled, or members of families with dependent children or qualified pregnant women or children. The program is jointly financed by the Federal and State governments and administered by States. Within broad Federal rules, each State decides eligible groups, types and range of services, payment levels for services, and administrative and operating procedures. Payments for services are made directly by the State to the individuals or entities that furnish the services.
>
> *42 CFR 430.0*

> The State plan is a comprehensive written statement submitted by the agency describing the nature and scope of its Medicaid program and giving assurance that it will be administered in conformity with the specific requirements of title XIX, the regulations in this Chapter IV, and other applicable official issuances of the Department. The State plan contains all information necessary for CMS to determine whether the plan can be approved to serve as a basis for Federal financial participation (FFP) in the State program.
>
> *42 CFR 430.10*

Section 1915(b) of the Social Security Act provides:

> The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this subchapter, may waive such requirements of section 1396a of this title (other than subsection (s) of this section) (other than sections 1396a(a)(15), 1396a(bb), and 1396a(a)(10)(A) of this title insofar as it requires provision of the care and services described in section 1396d(a)(2)(C) of this title) as may be necessary for a State…

The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915(c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Community Health (MDCH) operates a section 1915(b)

Medicaid Managed Specialty Services waiver. [redacted] contracts with the Michigan Department of Community Health to provide specialty mental health services. Services are provided by CMH pursuant to its contract obligations with the Department and in accordance with the federal waiver.

Medicaid beneficiaries are only entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate scope, duration, and intensity to reasonably achieve the purpose of the covered service. *See 42 CFR 440.230.*

The *MDCH/CMHSP Managed Specialty Supports and Services Contract* (the Contract)*: Attachment 3.3.2, 10/1/02, page 36,* makes the distinction that children and adolescents must have a severe emotional disturbance, as opposed to having only mild or moderate psychiatric symptoms, in order to be eligible to receive Medicaid specialized mental health services through a CMHSP. In the Contract, severe emotional disturbance is defined by:

> diagnosis and degree of disability, or
> diagnosis and duration of illness, or
> diagnosis and prior service utilization criteria.

The Department's Contract with the CMH sets out the eligibility requirements for Medicaid specialized ambulatory mental health benefits. Severe emotional disturbance is defined in the Contract as:

> 1. <u>Diagnoses</u> as defined by Diagnostic and Statistical Manual-IV Version (DSM-IV) –
> Schizophrenia and Mood Disorder (**Major** Depressions and Bipolar Disorders),
> Reactive Attachment Disorder (313.39),
> Autism with Accompanying Mental Disorder (302-.6, 302.85),
> Autism with Accompanying Mental Disorder, or
> Conduct Disorders.
>
> 2. <u>Degree of Disability</u>-Marked to severe emotional/behavioral impairment (not solely the result of mental retardation or other developmental disability, epilepsy, drug abuse, or alcoholism) that results in substantial functional limitation of major life activities in two or more of the following areas:
>
> > self-care at an appropriate developmental level,
> > self-direction, including behavioral control,
> > capacity for living with family or family equivalent,
> > social functioning,

learning, or
perceptive and expressive language

Duration-

evidence of six continuous months of illness, symptomatology/dysfunction in a 12-month period, or on the basis of a specific diagnosis (e.g., schizophrenia) disability is likely to continue for more than one year.

Prior Service Utilization-

a) four or more admissions to a community inpatient unit/facility in a calendar year,
b) community inpatient hospital days of care in a calendar year exceeding 45 days, or
c) state hospital utilization of over 60 days in a calendar year, or
d) utilization of over 20 mental health visits (e.g., individual or group therapy) in a calendar year.

MDCH/CMHSP Managed Specialty Supports and Services Contract: Attachment 3.3.2, 10/1/02, pages 35-36.

Diagnosis

Appellant's mother sought Medicaid covered mental health services for Appellant through [redacted] in [redacted]. Appellant mother reported that Appellant was abusing herself, violent towards others, and angry. Appellant's mother does not feel it is fair that Appellant was denied CMH services.

[redacted] completed the initial screening assessment of Appellant to determine whether she qualified for mental health services. The assessment revealed that Appellant did not display symptoms consistent with a qualifying Axis I diagnosis, rather her symptoms were consistent with an adjustment disorder. The resulting Axis I diagnosis was Adjustment Disorder with mixed anxiety and depression. Since this diagnosis does not meet the diagnosis criterion, Appellant would not qualify for Medicaid-covered specialized mental health services through the [redacted]

Degree of Disability

Despite the finding that the Appellant does not have a qualifying Axis I diagnosis, this Administrative Law Judge will discuss the additional requirements under the contract.

The Appellant may only be found to meet the Degree of Disability requirement if she has marked to severe emotional/behavioral impairment (not solely the result of mental retardation or other developmental disability, epilepsy, drug abuse, or alcoholism) that results in substantial functional limitation of major life activities in two or more of the following areas: self-care at an appropriate developmental level, self-direction including behavioral control, capacity for living with family or family equivalent, social functioning, learning, or perceptive and expressive language. According to the clinical assessment completed on Appellant did not have any problems in the areas of intellectual impairment, hobbies or interests or play or learning, activities of daily living, self direction, or personal hygiene and self-care; Appellant was moderately limited in the area of peer relationships or family relationships; Appellant did not have any problems with orientation, memory, attention, comprehension, or visual-motor, speech, language, or concrete thinking; Appellant did not have any conduct problems, other disruptive behaviors or paranoid ideation; and Appellant had mild oppositional behavior. Based on the evidence on the record, Appellant did not meet the Degree of Disability criteria.

Duration

Appellant's mother failed to provide sufficient evidence to establish that Appellant has experienced 6 continuous months of illness, symptomatology/dysfunction in a 12-month period, or on the basis of a specific diagnosis (e.g., schizophrenia) her disability is likely to continue for more than one year. Therefore, this Administrative Law Judge must conclude that Appellant did not meet the duration requirement for Medicaid funded specialized mental health services.

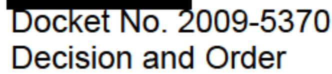
Prior Service Utilization

Appellant's mother failed to provide any evidence that: Appellant had four or more admissions to a community inpatient facility; **or** she was in a community hospital for more than 45 days; **or** she was in a state hospital for more than 60 days; **or** she utilized more than 20 mental health visits in the past calendar year. Based on the evidence on the record, Appellant did not meet the prior service utilization criterion for specialized mental health services.

In conclusion, the representative provided the necessary evidence to establish that Appellant did not meet the MDCH/CMHSP Managed Specialty Supports and Services Contract eligibility requirements for a severe emotional disturbance. Accordingly, the denial of Appellant's request for Medicaid-covered specialized mental health services through is upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department's agent, properly determined that that Appellant did not meet the MDCH/CMHSP Managed Specialty Supports and Services



Contract Medicaid service eligibility requirements for Medicaid-covered specialized mental health services.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

Date Mailed: 2/11/2009

***** NOTICE *****

SOAHR 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 and Order. The SOAHR 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.