

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

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IN THE MATTER OF:

Docket No. 2010-15622 ABW
[REDACTED]

[REDACTED],
Appellant

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held [REDACTED]. [REDACTED] appeared on his own behalf. [REDACTED], hearing coordinator for [REDACTED], represented the Department of Community Health's mental health and substance abuse services contractor.

ISSUE

Did the [REDACTED] properly propose to terminate mental health services for the Appellant?

FINDINGS OF FACT

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

1. Appellant is an ABW beneficiary who resides in [REDACTED]
2. [REDACTED] is the PIHP which is responsible to provide mental health and substance abuse services for beneficiaries who reside in [REDACTED]
3. The Appellant is a [REDACTED] year-old male who sought mental health treatment from [REDACTED]
4. In [REDACTED] the Appellant had a mental health evaluation. He was diagnosed as malingering, alcohol abuse, and cannabis abuse. He had no Axis I mental health diagnosis.
5. The Appellant was provided some outpatient mental health therapy services until [REDACTED]

6. In ██████████ the CMH sought to terminate services as not medically necessary. The discharge summary indicates the Appellant addressed mood instability, anxiety, loss issues and pain management issues in therapy. He is prescribed Elavil.
7. The Appellant objects to the termination of his therapy services, citing depression and mood instability.
8. The Appellant was offered a second mental health evaluation, scheduled with ██████████. He did not attend that scheduled appointment.
9. On ██████████ ██████████ sent a Notice denying continued mental health services and treatment. A referral for substance abuse treatment was provided.
10. The Appellant requested a formal, administrative hearing ██████████

CONCLUSIONS OF LAW

On January 16, 2004, the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services, approved the Adult Benefit Waiver to permit the state to use state funds and funds authorized under Title XXI of the Social Security Act to provide coverage to uninsured adults who were not otherwise eligible for Medicaid or Medicare. The program utilizes the Medicaid provider network and County-Administered Health Plans (CHPs) as managed care providers.

The Department's policy with regard to the Adult Benefits Waiver is found in the Medicaid Provider Manual:

SECTION 1 - GENERAL INFORMATION

This chapter applies to all providers.

The Adult Benefits Waiver (ABW), provides health care benefits for Michigan's childless adult residents (age 18 through 64) with an annual income at or below 35 percent of the Federal Poverty Level (FPL). Covered services and maximum co-payments for beneficiaries in this eligibility category are detailed in the following sections. Unless noted in Medicaid provider-specific chapters, service coverage and authorization requirements for the fee-for-service (FFS) beneficiaries enrolled in the ABW program mirror those required for Medicaid. Only those providers enrolled to provide services through the Michigan Medicaid Program may provide services for FFS ABW beneficiaries.

SECTION 1.1 - COUNTY ADMINISTERED HEALTH PLANS

ABW beneficiaries enrolled in CHPs are subject to the requirements of the respective CHP. In those counties operating nonprofit CHPs, all covered services for ABW beneficiaries must be provided through the health plan. CHPs administering the ABW program are required to provide the services as noted in the Coverage and Limitations Section of this chapter to ensure that benefits are consistent for all ABW beneficiaries across the FFS and CHP programs.

*Medicaid Provider Manual, Adult Benefits Waiver, J
July 1, 2009, Page 1.*

SECTION 3 - MENTAL HEALTH/SUBSTANCE ABUSE COVERAGE

Mental health and substance abuse services for ABW beneficiaries are the responsibility of the Prepaid Inpatient Health Plans (PIHPs) and the Community Mental Health Services Programs (CMHSPs) as outlined in this section. ABW mental health and substance abuse coverage is limited both in scope and amount to those that are medically necessary and conform to professionally accepted standards of care consistent with the Michigan Mental Health Code. Utilization control procedures, consistent with the medical necessity criteria/service selection guidelines specified by MDCH and in best practice standards, must be used.

3.1 MENTAL HEALTH SERVICES

PIHPs/CMHSPs are responsible for the provision of the following mental health services to ABW beneficiaries when medically necessary and within applicable benefit restrictions:

- Crisis interventions for mental health-related emergency situations and/or conditions.
- Identification, assessment and diagnostic evaluation to determine the beneficiary's mental health status, condition and specific needs.
- Inpatient hospital psychiatric care for mentally ill beneficiaries who require care in a 24-hour medically-structured and supervised licensed facility.
- Other medically necessary mental health services:
- Psychotherapy or counseling (individual, family, group) when indicated;
- Interpretation or explanation of results of psychiatric examination, other medical examinations and procedures,

or other accumulated data to family or other responsible persons, or advising them how to assist the beneficiary;

- Pharmacological management, including prescription, administration, and review of medication use and effects; or
- Specialized community mental health clinical and rehabilitation services, including case management, psychosocial interventions and other community supports, as medically necessary, and when utilized as an approved alternative to more restrictive care or placement.

Any beneficiary liability for the cost of covered services shall be determined by each CMHSP, according to the ability-to-pay provisions of the Michigan Mental Health Code and applicable administrative rules.

*Medicaid Provider Manual Adult Benefits Waiver
Version Date: April 1, 2010 Page 8*

In this case, the CMH asserts continued mental health treatment is not medically necessary for the Appellant. The evidence relied on to support this assertion is the finding that his primary diagnosis is a substance abuse disorder, rather than a finding of serious mental illness. It is asserted that because he lacks a primary diagnosis, it is not medically necessary to provide mental health treatment services. He was referred for substance abuse treatment services.

The Appellant asserts he is depressed and has anger management issues. While it is true he evidenced he is coping with loss and grief issues, he did not present evidence of medical necessity for continued outpatient mental health therapy. He did not present evidence that crisis intervention or any other mental health service was medically necessary at this time. This ALJ heard his testimony and saw evidence of his grief over his current medical condition, however, this did not establish that the treatment services sought are medically necessary to maintain his current level of functioning. There was no evidence presented his functioning was impaired by whatever mental health issues he does experience. The anger management issues cited are not, in and of themselves, evidence of a serious mental illness. It is noted his psychological evaluation cites no evidence of a formal thought disorder, hallucinations or other perceptual disturbances. There was no evidence he is delusional or psychotic. He denied suicidal or homicidal ideations at the time of his evaluation. This ALJ does concur with the CMH determination that continued mental health treatments are not medically necessary for this Appellant at this time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that ██████████ properly terminated the Appellant's outpatient mental health therapy services.

[REDACTED]
Docket No. 2010-15622 CMH
Decision and Order

IT IS THEREFORE ORDERED THAT:

The [REDACTED] decision is AFFIRMED.

Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 05/05/2010

***** 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 and 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.