

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

IN THE MATTER OF:

██████████

Docket No. 2010-47802 MHF

Appellant

_____ /

DECISION AND ORDER

This case is before the undersigned Administrative Law Judge pursuant to the provisions of MCL 330.1834 and Chapter 4 of the Administrative Procedures Act of 1969, as amended, MCL 24.271 *et seq.*

After due notice, a hearing was held on ██████████. The Appellant appeared without representation. He had no witnesses. ██████████ represented the Department. Her witness was technician ██████████. Also in attendance was ██████████, observing.

ISSUES

- I. Has the Department properly determined Appellant's ability to pay for his child's care at the ██████████?
- II. Would the Department's determination of the Appellant's financial liability create an undue financial burden?

FINDINGS OF FACT

Based upon the competent, material, and substantial evidence presented, I find, as material fact:

1. The Appellant's child is a Medicaid beneficiary. He was admitted to the ██████████ Center in ██████████ for (7) seven days by the Appellant's ex-spouse, ██████████
2. The Appellant is a responsible party.
3. The responsible party status of the ex-spouse is not known – although she demonstrates no taxable income on [8412] Parental Ability to Pay Determination as of ██████████ Department's Exhibit A, pp. 11, 13.
4. On ██████████, the Department administered a Parental Determination of Ability

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to Pay for the Appellant, [REDACTED]. The Department determined taxable income of [REDACTED]. Pursuant to MCL 330.1800(j), MCL 330.1818 and Administrative Rule 330.8239, the Department determined that the Appellant has the ability to pay a monthly amount of [REDACTED] toward the cost of his child's mental health services at the [REDACTED].

5. The Appellant's ability to pay was determined to be at the rate of 15 per cent for taxable income over [REDACTED] on application of Rule 330.8239. Department's Exhibit A – throughout.
6. The instant appeal was received by the State Office of Administrative Hearings and Rules for the Department of Community Health on [REDACTED]. The Appellant appealed the financial liability determination, and requested a hearing. Appellant's Exhibit #1.

CONCLUSIONS OF LAW

Section 802 of the Michigan Mental Health Code, being MCL 330.1802, establishes financial liability for mental health services provided by the Michigan Department of Community Health.

MCL 330.1800(j) defines responsible party as a person who is financially liable for services furnished to the individual. Responsible party includes the individual and, as applicable, the individual's spouse and parent or parents of a minor.

Section 822 of the Michigan Mental Health Code, being MCL 330.1822 requires all responsible parties to make:

. . . available to the Department or Community Mental Health Services Program any relevant financial information that the department or community mental health services program is not prohibited by law from seeking and obtaining, and that the Department or Community Mental Health Services Program deems essential for the purpose of determining ability to pay. Willful failure to provide the relevant financial information may result in a determination of ability to pay up to the full cost of services received by the individual.

Regarding undue financial burden:

A responsible party's ability to pay shall not create an undue financial burden that does either of the following:

- (a) Deprives the party and his or her dependents of the necessities described in these rules.
- (b) Deprives the party and his or her dependents of the financial means to maintain or re-establish the individual in a reasonable

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and appropriate community-based setting.

R 330.8279

Expenses mean the reasonable un-reimbursed expenditures of money, actual and estimated, during a financial year to maintain a standard of living essential for one's self and his or her dependents. All of the following are considered necessities:

- (i) Food, clothing, and personal necessities.
- (ii) Shelter, including utilities and repairs for the upkeep of a homestead.
- (iii) Employment or business expenses.
- (iv) Medical services.
- (v) Taxes.
- (vi) Elementary, secondary, and postsecondary education.
- (vii) Repayment of personal financial obligations contractually established before an application was made for services, including such outstanding debt as lease payments, credit card obligations, and other educational or training expenses.

Rule 330.8005 (i) defines "undue financial burden" as follows:

- (i) "Undue financial burden" means a determination of ability to pay that would materially decrease the standard of living of a responsible party or his or her dependents by decreasing the responsible party's capacity to pay for expenses as defined in these rules.

Determination of Appellant's financial liability

On [REDACTED], the Department completed a [8412] Parental Ability to Pay Determination.

The Department determined the Appellant's ability to pay based on the only information available – a [REDACTED] Individual Income Tax Return which showed taxable income in the amount of [REDACTED]

There was no return filed for [REDACTED] – this was verified by the Appellant at hearing. He said he is forced to seek an extension and payment plan to satisfy his tax obligations because he is unemployed and that the [REDACTED] represented a buy-out payment on permanent lay off from his job. He said that money is gone.

As of this writing it is unknown whether the Appellant has filed a [REDACTED] return.

The Appellant also stated that he was unaware his child had been hospitalized and that the ex-spouse was in violation of a [REDACTED] circuit court order redefining certain child support obligations as memorialized between the parties on receipt of the buy-out from the Appellant's former employer. Absent a [REDACTED] return or other available financial information the Department can make financial determination based only on relevant financial information it is not prohibited from obtaining –

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such as the father's [REDACTED] income tax return.

If the ex-spouse has violated the terms and conditions of the child support agreement that is a dispute beyond the jurisdiction of this administrative law judge.

The Department witness said she would be happy to review the Appellant's [REDACTED] itemized tax return when presented.

While the ALJ understands the plight of the Appellant, his jurisdiction is narrow and limited herein to determining whether the Department properly computed his ability to pay and whether this debt created an undue financial burden within the meaning of the rules, above.

I gave controlling weight to the financial determination prepared by the Department's witness. It was fairly drawn, accurate and timely presented. It showed the only information available to the Department for reaching the financial determination. Based on the Appellant's testimony and his Exhibit, I find that the debt advanced by the Department does not create an undue financial burden on the Appellant. Accordingly, I must conclude the Department's financial liability determination does not create an undue financial burden.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I decide the Department properly calculated the financial ability determination.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.

Daler Malewska
Administrative Law Judge

cc: [REDACTED]

Date Mailed: 10/18/2010

***** NOTICE *****

The Appellant may appeal the above Decision and Order to the probate court for the county in which he/she lives. The Appellant's appeal to the probate court must be within 60 days from the date of the Decision and Order.