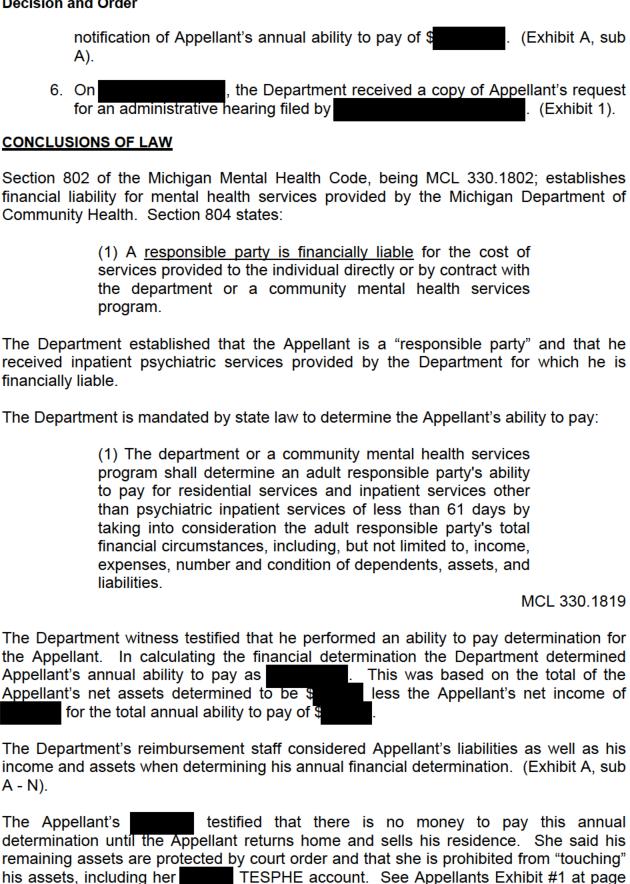
STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES FOR THE DEPARTMENT OF COMMUNITY HEALTH

P.O. Box 30763, Lansing, MI 48909 (877) 833-0870; Fax: (517) 334-9505

| IN THE MATTER OF: Appellant | Docket No . 2011-2180 MHF |
|--|---|
| DECISION AND ORDER | |
| | of Administrative Hearings and Rules pursuant to Chapter 4 of the Administrative Procedures Act of q. |
| After due notice, a hearing was held on | |
| <u>ISSUE</u> | |
| Did the Department properly determine Appellant's ability to pay for inpatient services? | |
| FINDINGS OF FACT | |
| The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact: | |
| The Appellant was admitted (Exhibit A, su | d to the in the C and see Testimony). |
| 2. An annual ability to public department. | reimbursement staff on |
| The determination found A (Exhibit A - throughout). | Appellant's annual ability to pay as \$ |
| • | ement officer considered Appellant's liabilities as nd assets when determining his annual ability to |
| 5. On , th | ne Department sent Appellant's written |

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3.



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She added that he has neither disposable income nor any social security payments. She said his income tax refund is seized by the State to cover a prior arrearage to the Department.

The Department's witness correctly observed that the could get approval from the court to release the Appellant's TESPHE¹ funds for resolution of this debt. Furthermore, the Appellant as the responsible party can direct utilization of his TESPHE funds for payment of his annual ability to pay.

The Michigan Mental Health Code, Section MCL 330.1824 and the Administrative Code does prohibit undue burden imposed by an ability to pay:

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 and appropriate community-based setting.

R 330.8279

Expenses means 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.
- (viii) Payments made under a divorce decree or court order.
- (ix) Transportation to maintain employment and necessary

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¹ A Ford Motor Co. IRA account

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family activities.

R 330.8005(c)

The Appellant is court-ordered to live in a residential setting. He has resided in the Center for Forensic Psychiatry since . At the time of hearing there are plans to discharge the Appellant [within a year] to an adult foster home. There was no known financial factor preventing the re-establishment of the Appellant in an appropriate community-based setting. There is no finding of undue financial burden.

The Department provided sufficient evidence to establish that it properly determined the Appellant's ability to pay for inpatient services. The Appellant did not provide a preponderance of evidence that the Department failed to properly determine the Appellant's ability to pay.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined Appellant's ability to pay for inpatient services.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Dale Malewska Administrative Law Judge

CC:

Date Mailed: _1/11/2011

*** 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.