

**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 Nos. 2011-22138 CWS
2011-24160 CWS
2011-27436 CWS
2011-27524 CWS
2011-27525 CWS
2011-33419 CWS**

Case No. ██████████

Appellant

_____ /

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.

Summary

In ██████████ the Appellant, through his attorney ██████████, filed a request for a Medicaid fair hearing. The Appellant contested ██████████ County Community Mental Health's (██████████ CMH) determination that the Appellant was not eligible for Medicaid Children's Waiver Program, and more appropriate were services to the Appellant through the Serious Emotional Disorder Waiver. Over the course of seven months several adjournments were granted. Appellant's last-minute motions were objected to by the State Assistant Attorney General representing Respondent and the motions were denied as untimely filed. An in-person hearing was scheduled for ██████████, and after Appellant's further request for adjournment was denied Appellant submitted a Request for Withdrawal of Appeal less than 24 hours prior to the commencement of hearing. The effect of the Appellant's withdrawal was that the ██████████ ██████████ County Community Mental Health's determination that Appellant did not meet the eligibility requirements for Medicaid Children's Waiver Program was a final Department decision. The Appellant's withdrawal ended the Appellant's administrative appeal with the effect being Appellant was not authorized for the Children's Waiver Program through any Michigan county CMH.

In ██████████ after the Appellant's withdrawal resulted in a final determination of non-eligibility for the Children's Waiver Program, the Appellant sought Children's Waiver Program services through the ██████████ County CMH. On ██████████, less than six weeks after Appellant withdrew his request for hearing on ██████████ County CMH's determination, the Appellant, through his attorney ██████████ submitted a request for hearing contesting ██████████ County CMH's determination that the Appellant was not

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eligible for Medicaid Children's Waiver Program but offered services to the Appellant through the Serious Emotional Disorder Waiver. *Docket No. 2011-22138*. In the following two months the Appellant, through his attorney, ██████████, filed five additional requests for hearing. *Docket Nos. 2011-24160, -27436, -27524, -27525 and -33419*. All six requests for hearing are related to the Children's Waiver Program eligibility and provision of services, as well as similar to the issues raised in the ██████████ CMH request that Appellant withdrew. The ██████████ County CMH provided some services paid for with non-Medicaid General Funds because the Appellant was no longer authorized for Medicaid Children's Waiver program services though any county CMH.

An ██████████ hearing in the above-captioned matters was scheduled and noticed. Appellant requested and was granted an adjournment. Subsequent to that adjournment the Appellant requested and was granted two more adjournments. Notice of a ██████████ hearing was served and again Appellant requested a hearing. A partial hearing was granted, excusing Appellant's counsel from the morning portion of a hearing, but retaining the in-person afternoon hearing.

On ██████████, the day before the rescheduled hearing, Appellant's attorney, ██████████, filed two motions with the Michigan Administrative Hearing System: Motion for Summary Disposition and Motion to Reinstate Children's Waiver Services Consistent with the ██████████ person-centered plan. The total page count exceeded 300 pages.

At the outset of the ██████████, in-person hearing this Administrative Law Judge questioned the Appellant's attorney about the propriety of filing two motions less than 24 hours prior to the hearing, despite having almost a month prior notice of hearing and despite having the experience of being ruled against as untimely by the Michigan Administrative Hearing for her practice of filing large motions less than 24 hours prior hearing in the ██████████ CMH case.

This Administrative Law Judge denied Appellant's two motions on the record citing authority of a presiding officer to regulate the course of a hearing and set time for filing motions and briefs under the Administrative Procedures Act, *MCL 24.280*, and correspondingly this presiding officer's authority to adopt the Michigan Court Rule timeline for filing motions and briefs: filed and services at least 21 days before the time set for hearing. *MCR 2.116*.

Immediately following the denial of motions, the Appellant's attorney, ██████████, stated on the record that she would leave the hearing. This Administrative Law Judge indicated that the hearing would continue and dispositions rendered under APA Section 278 and Attorney ██████████ stated on the record that she understood the hearing would continue and dispositions rendered for the six requests for hearing. This Administrative Law Judge asked Attorney ██████████ if she understood that the decisions would be rendered without her participation, in effect actively waiving the opportunity to provide evidence on behalf of her client, and Attorney ██████████ stated on the record that she understood she would not be providing evidence on behalf of her client for disposition of her client's

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six matters. Attorney [REDACTED] packed her documents, left the hearing room and did not return prior to the conclusion of the hearing.

The hearing continued with [REDACTED], Fair Hearing Officer, appearing on behalf of the Department's agent [REDACTED] County Community Mental Health Organization (CMH), [REDACTED], CMH Supports Coordinator Case Manager; appearing as a witness for the Department.

The Appellant's six requests for hearing are addressed individually below.

ISSUE

Did the Department's agent [REDACTED] CMH properly determine that Appellant was not eligible for the Children's Waiver Program in [REDACTED] or for the services he requested from [REDACTED] through [REDACTED]?

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 [REDACTED]-year-old male Medicaid beneficiary.
2. [REDACTED] County Community Mental Health Organization (CMH) is under contract with the Michigan Department of Community Health (Department) to assess potential candidates for the Children's Waiver Program (CWP) and to administer services to beneficiaries enrolled in the Children's Waiver who reside in the [REDACTED] CMH service area. The CMH also provides Serious Emotional Disturbance Waiver program services to Medicaid beneficiaries.
3. The Appellant successfully manages advanced courses in high school, drama and productions, and complex computer skills.
4. The Appellant does not have a developmental disability and does not have a substantial limitation in three or more activities of daily living. *Testimony of CMH witness [REDACTED] and CMH hearing summaries.*
5. The Appellant is not at risk of placement in an ICFMR or in need of active treatment.
6. The Appellant is not currently authorized for Children's Waiver Services.
7. In [REDACTED] the Appellant sought Children's Waiver Program services through the [REDACTED] County CMH.
8. On [REDACTED] CMH's agent Community Support Treatment

Services completed an eligibility determination for the Appellant and determined he was eligible for the Serious Emotional Disturbance Waiver. *Testimony of CMH witness [REDACTED] and CMH hearing summaries.*

9. On [REDACTED] the CMH provided notice of Appellant's ineligibility for the Children's Waiver program. The CMH expressed to Appellant's mother the desire to offer services to the Appellant under the Serious Emotional Disturbance Waiver program. *Testimony of CMH witness and representative, and CMH hearing summaries.*
10. On [REDACTED], the Appellant submitted a request for hearing contesting [REDACTED] County CMH's determination that the Appellant was eligible for the Serious Emotional Disorder Waiver and was not eligible for Medicaid Children's Waiver Program. *Docket No. 2011-22138.*
11. On [REDACTED] Appellant requested that the CMH pay for the following services:
 - 24 hour per day, two CLS workers at all times for the Appellant.
 - Transportation reimbursement
 - Laughter yoga reimbursement
 - Laughter yoga classes
 - Relaxation classes
 - Meditation
 - Yoga
 - Survival classes
 - Music therapy
 - Art therapy
 - Recreational therapy
 - Hippotherapy
 - Horseback riding
 - Drama theater programs
 - Dance programs
 - Neutral Zone membership and classes
 - Music production and engineering
 - Piano and any other instrument
12. On [REDACTED] CMH denied the services as not covered or not medically necessary and mailed notice of denial to Appellant. *Ex. 1 related to this Docket No.*
13. On [REDACTED] Appellant's request for hearing was received contesting denial. *Docket No. 2011-24160.*
14. In [REDACTED] the CMH provided Appellant community living supports paid for by general funds because he was not eligible for or authorized for the Children's Waiver Program through CMH. Appellant was provided CLS under

- an agreement with CMH that authorized 11 hours per day on a short-term temporary basis after which the authorization would be seven hours per day.
15. On [REDACTED], the CMH sent notice to Appellant that the 11 hours of CLS would be reduced pursuant to the agreement between the Appellant and CMH. *Ex. 1*
 16. On [REDACTED], Appellant's request for hearing was received contesting the reduction of CLS. *Docket No. 2011-27436.*
 17. In [REDACTED] Appellant requested the following services:
 - Bally Total Fitness including a personal trainer
 - J'Spaa Massage Service
 18. On [REDACTED], the CMH sent notice to Appellant that the Bally Total Fitness and J'Spaa Massage Service was denied as not covered or not medically necessary and mailed notice of denial to Appellant. *Ex. 1 related to this Docket no.*
 19. On [REDACTED], Appellant's request for hearing was received contesting the denial. *Docket No. 2011-27525.*
 20. In [REDACTED] the Appellant's CMH case manager reviewed Appellant's CLS progress notes to determine medical necessity for continued CLS. Several months of CLS progress notes demonstrated that Appellant's CLS hours were being utilized as follows: the CLS worker met Appellant at the library and watched as the Appellant completed his homework. Very little interaction on the part of the CLS worker was reported. No incidences of observed behaviors over the several months were recorded in the progress notes. *Ex. 2 related to this Docket No. and testimony of CMH witness [REDACTED]*
 21. On [REDACTED], the CMH sent notice to Appellant that the 7 hours of CLS would be reduced to 4 hours as not medically necessary and library observation not a covered service. *Ex. 1*
 22. On [REDACTED], Appellant's request for hearing was received contesting the reduction of CLS. *Docket No. 2011-27524.*
 23. In [REDACTED] the Appellant requested enhanced transportation because his mother had recently become employed and also requested an increase in CLS hours.
 24. On [REDACTED] 11, the CMH sent notice to Appellant that the increase in CLS was denied because "Current utilization of CLS hours are not being used to increase or maintain personal self-sufficiency." The notice also denied enhanced transportation because "it is not a B3 service", and is not a covered service using general funds. *Exs. 1 and 2 related to this Docket No.*

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25. On [REDACTED], Appellant's request for hearing was received contesting the denials. *Docket No. 2011-33419.*

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. The CMH in this case is CEICMHA.

Section 14.0

The Children's Home and Community Based Services Waiver Program (CWP) provides services that are enhancements or additions to regular Medicaid coverage to children up to age 18 who are enrolled in the CWP...

The Children's Waiver is a fee-for-service program administered by the CMHSP. CMHSP is financially responsible for any costs incurred on behalf of the CWP beneficiary that were authorized by CMHSP and exceed the Medicaid fee screens or amount, duration and scope parameters...

Section 14.1

The CWP enables Medicaid to fund necessary home- and community-based services for children with developmental disabilities who reside with their birth or legally adoptive parent(s) or with a relative who has been named legal guardian under the laws of the State of Michigan, regardless of their parent's income.

CMHSP is responsible for the assessment of potential waiver candidates. CMHSP is also responsible for referring potential waiver candidates to the Department by completing the CWP "pre-screen" form and sending it to the Department to determine priority rating.

Medicaid Provider Manual (MPM), Mental Health and Substance Abuse Services, p. 66. (January 1, 2007).

Docket No. 2011-22138.

On ██████████ the CMH provided notice of Appellant's ineligibility for the Children's Waiver program. The CMH expressed to Appellant's mother the desire to offer services to the Appellant under the Serious Emotional Disturbance Waiver program. On ██████████, the Appellant submitted a request for hearing contesting ██████████ County CMH's determination that the Appellant was eligible for the Serious Emotional Disorder Waiver and was not eligible for Medicaid Children's Waiver Program.

At hearing the CMH representative and witness provided document and testimony evidence establishing that the Appellant did not have a developmental disability and therefore did not meet the eligibility criteria for Children's Waiver program.

Department policy lists the eligibility requirements for the CWP are as follows:

14.2 Eligibility

The following eligibility requirements must be met:

-The child must have a developmental disability (as defined in Michigan state law), be less than 18 years of age and in need of habilitation services.

-The child must have a score on the Global Assessment of Functioning (GAF) Scale of 50 or below.

-The child must reside with his birth or legally adoptive parent(s) or with a relative who has been named the legal guardian for that child under the laws of the State of Michigan, provided that the relative is not paid to provide foster care for that child.

-The child is at risk of being placed into an ICF/MR facility because of the intensity of the child's care and the lack of needed support, or the child currently resides in an ICF/MR facility but, with appropriate community support, could return home.

-The child must meet, or be below, Medicaid income and asset limits when viewed as a family of one (the parent's income is waived).

-The child's intellectual or functional limitations indicate that he would be eligible for health, habilitative and active treatment services provided at the ICF/MR level of care. Habilitative services are designed to assist individuals in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community-based settings. Active treatment includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services. Active treatment is directed toward the acquisition of the behaviors necessary for the beneficiary to function with as much self-determination and independence as possible, and the prevention or deceleration of regression or loss of current optimal functional status. *Medicaid Provider Manual (MPM), Mental Health and Substance Abuse Services, pp. 69-70.* (January 1, 2011).

All of the MPM Section 14.2 criteria listed above must be met in order for the Appellant to be eligible for CWP. The CMH asserted that the Appellant did not have a developmental disability, rather any limitations or inpatient stays were related to emotional disturbance behaviors for which the Serious Emotional Disturbance waiver services would be appropriate. It was in part because the Appellant did not have a developmental disability that the CMH believed he did not meet all the criteria for CWP eligibility.

The Appellant submitted no evidence to establish that he has a developmental disability.

CMH witness ██████ testified that he performed an assessment to determine whether the Appellant met the criteria for CWP eligibility. Witness ██████ stated that he used the Department's policy when he performed the determination, including an assessment of whether the Appellant had a developmental disability. Witness ██████ utilized the legal definition for developmental disability when performing the assessment:

Michigan Mental Health Code 330.1100a

(21) "Developmental disability" means either of the following:

(a) If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:

(i) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(ii) Is manifested before the individual is 22 years old.

(iii) Is likely to continue indefinitely.

(iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

(v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

Witness ██████ explained that Appellant would have to have a substantial limitation in three or more areas of major life activity but the Appellant did not meet that definition because:

(A) Self-care -Appellant was able to feed himself, dress himself and perform all self-care.

(B) Receptive and expressive language. –Appellant had no problems expressing himself.

(C) Learning. -Appellant was successful in advanced high school classes.

(D) Mobility. -Appellant has no mobility limitations and was successful in high school drama and dance productions.

(E) Self-direction. Appellant has exhibited the ability to successfully maneuver obstacles in order to get his way and he does not need constant guidance for self-direction.

(F) Capacity for independent living. Appellant has exhibited the ability to successfully maneuver obstacles in order to get his way. The CMH witness gave the example of how the Appellant was sophisticated and determined enough to successfully “hack” through the school’s computer system security to accomplish his goal.

(G) Economic self-sufficiency. –Appellant has a high capacity for gainful employment.

The Code of Federal Regulations lists the eligibility criteria for admission to an ICF/MR, including the criteria for active treatment to be provided through the ICF/MR facility.

Specifically 42 CFR 440.150 provides:

§ 440.150 Intermediate care facility (ICF/MR) services.

(a) "ICF/MR services" means those items and services furnished in an intermediate care facility for the mentally retarded if the following conditions are met:

(1) The facility fully meets the requirements for a State license to provide services that are above the level of room and board;

- (2) The primary purpose of the ICF/MR is to furnish health or rehabilitative services **to persons with mental retardation or persons with related conditions**; (Emphasis added by ALJ)
- (3) The ICF/MR meets the standards specified in subpart I of part 483 of this chapter.
- (4) The recipient with mental retardation for whom payment is requested is receiving active treatment, as specified in § 483.440 of this chapter.** (Emphasis added by ALJ)
- (5) The ICF/MR has been certified to meet the requirements of subpart C of part 442 of this chapter, as evidenced by a valid agreement between the Medicaid agency and the facility for furnishing ICF/MR services and making payments for these services under the plan.

- (b) ICF/MR services may be furnished in a distinct part of a facility other than an ICF/MR if the distinct part--
 - (1) Meets all requirements for an ICF/MR, as specified in subpart I of part 483 of this chapter;
 - (2) Is clearly an identifiable living unit, such as an entire ward, wing, floor or building;
 - (3) Consists of all beds and related services in the unit;
 - (4) Houses all recipients for whom payment is being made for ICF/MR services; and
 - (5) Is approved in writing by the survey agency.

Active treatment is defined in 42 CFR 483.440.

§ 483.440 Condition of participation: Active treatment services.

- (a) Standard: Active treatment.
 - (1) Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services described in this subpart, that is directed toward--
 - (i) The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and
 - (ii) The prevention or deceleration of regression or loss of current optimal functional status.
 - (2) Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

- (b) Standard: Admissions, transfers, and discharge.
- (1) Clients who are admitted by the facility must be in need of and receiving active treatment services.
 - (2) Admission decisions must be based on a preliminary evaluation of the client that is conducted or updated by the facility or by outside sources.
 - (3) A preliminary evaluation must contain background information as well as currently valid assessments of functional developmental, behavioral, social, health and nutritional status to determine if the facility can provide for the client's needs and if the client is likely to benefit from placement in the facility.

Witness ████████ further explained that the Appellant did not require the level of care provided by an ICF/MR, and his IQ was not that of mental retardation, rather he had above average intelligence.

The testimony of Witness ████████, and the CMH representative, along with documentation submitted into the Record, indicates the Appellant did not meet the federal ICF/MR placement criteria or the Department CWP eligibility criteria.

Docket No. 2011-24160 and Docket No. 2011-27525.

On ██████████ Appellant requested the following services:

- 24 hour per day, two CLS workers at all times for the Appellant.
- Transportation reimbursement
- Laughter yoga reimbursement
- Laughter yoga classes
- Relaxation classes
- Meditation, yoga
- Survival classes
- Music therapy
- Art therapy,
- Recreational therapy
- Hippotherapy
- Horseback riding
- Drama theater programs
- Dance programs
- Neutral Zone membership and classes
- Music production and engineering
- Piano and any other instrument

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On [REDACTED] CMH denied the services as not covered or not medically necessary and mailed notice of denial to Appellant. *Ex. 1 related to this Docket No.* On [REDACTED] Appellant's request for hearing was received contesting denial.

In [REDACTED] Appellant also requested the following services:

Bally Total Fitness
J'Spaa Massage Service

On [REDACTED], the CMH sent notice to Appellant that the Bally Total Fitness and J'Spaa Massage Service were denied as not covered or not medically necessary and mailed notice of denial to Appellant. *Ex. 1 related to this Docket no.* On [REDACTED], Appellant's request for hearing was received contesting the denial.

The testimony of Witness [REDACTED] and the CMH representative indicated that the services the Appellant requested in [REDACTED] were not CMH non-waiver, Medicaid covered services. A review of the Department's policy found in the *Medicaid Provider Manual (MPM), Mental Health and Substance Abuse Services*, supports the CMH statements. In addition, the Appellant submitted no evidence to establish that the services he requested on [REDACTED], were medically necessary or covered in his situation. The CMH was proper to deny the services Appellant requested in [REDACTED].

Docket No. 2011-27436 and Docket No. 2011-27524.

In [REDACTED] the CMH provided Appellant community living supports paid for by general funds because he was not eligible for or authorized for the Children's Waiver Program through CMH. Appellant was provided CLS under an agreement with CMH that authorized 11 hours per day on a short-term temporary basis after which the authorization would be seven hours per day.

On [REDACTED], the CMH sent notice to Appellant that the 11 hours of CLS would be reduced to 7 hours pursuant to the agreement between the Appellant and CMH. On [REDACTED], Appellant's request for hearing was received contesting the reduction of CLS.

In [REDACTED] the Appellant's CMH case manager reviewed Appellant's CLS progress notes to determine medical necessity for continued CLS. Several months of CLS progress notes demonstrated that Appellant's CLS hours were being utilized as follows: the CLS worker met Appellant at the library and watched as the Appellant completed his homework. Very little interaction on the part of the CLS worker was reported. No incidences of observed behaviors over the several months were recorded in the progress notes. *Ex. 2 related to this Docket No.*

On [REDACTED], the CMH sent notice to Appellant that the 7 hours of CLS would be reduced to 4 hours as not medically necessary and library observation not a covered service. *Ex. 1* On [REDACTED], Appellant's request for hearing was received contesting

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the reduction of CLS.

At hearing, Appellant's CMH case manager ██████████ testified that Appellant's use of CLS hours were intended to work on his behavior plan. Witness ██████████ explained that Appellant's use of CLS was not appropriate because instead of being used to working on his behavior plan the CLS worker sat in a library with little interaction with Appellant, brought Appellant to lunch or drove Appellant to his personal trainer. A review of several months of Appellant's CLS progress notes and the *Medicaid Provider Manual (MPM), Mental Health and Substance Abuse Services, 17.3.B* definition of CLS, supports the CMH reduction of CLS services. The Appellant submitted no evidence to support his use of CLS services or medical necessity for CLS hours per day. The evidence of record shows that Appellant's mother never completed and signed a current person-centered plan for Appellant despite being provided the documents by ██████████ CMH. *Testimony of CMH representative and hearing summary documents entered into evidence on ██████████*. The preponderance of evidence supports the CMH's reduction of CLS hours

Docket No. 2011-33419.

In ██████████ the Appellant requested enhanced transportation because his mother had recently become employed and also requested an increase in CLS hours.

On ██████████, the CMH sent notice to Appellant that the increase in CLS was denied because "Current utilization of CLS hours is not being used to increase or maintain personal self-sufficiency." The notice also denied enhanced transportation because "it is not a B3 service", and is not a covered service using general funds. *Exs. 1 and 2 related to this Docket No.* On ██████████, Appellant's request for hearing was received contesting the denials.

A review of several months of Appellant's CLS progress notes and the *Medicaid Provider Manual (MPM), Mental Health and Substance Abuse Services* supports the CMH denial of increase in CLS services and the denial of enhanced transportation. The preponderance of evidence supports the CMH denial of increase in CLS services and the denial of enhanced transportation.

The Appellant bears the burden of proving, by a preponderance of evidence, that he meets all of the criteria for CWP eligibility and meets all the criteria for authorization of services requested. In Appellant's case, he did not meet the burden of proving by a preponderance of evidence, that he met all of the criteria for CWP eligibility and met all the criteria for authorization of services requested.

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The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Appellant was not eligible for the Children's Waiver Program in [REDACTED] or for the services he requested from [REDACTED] through [REDACTED].

IT IS THEREFORE ORDERED that:

- The Department-CMH's decisions raised in all six requests for hearing listed in the above caption are AFFIRMED.



Lisa K. Gigliotti
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community
Health

cc:

[REDACTED]

Date Mailed: 12/29/2011