

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
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. 2011-16922 SAS

Case 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 ██████████. ██████████ appeared on her own behalf. ██████████, appeared as a witness for the Appellant. ██████████ represented the Department. ██████████; and ██████████, appeared as witnesses for the Department. ██████████.

ISSUE

Did the Department properly deny Appellant's request for Opiate Methadone Treatment (OMT)?

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 Medicaid beneficiary.
2. ██████████ is the authorizing agency for substance abuse services in ██████████ and ██████████ counties.
3. ██████████ authorization unit for Medicaid beneficiaries is its ██████████.
4. The Appellant is a ██████████ female with a history of substance abuse, including use of heroin.
5. The Appellant has a DSM-IV Axis I diagnosis of Opioid Dependence - DSM 304.00. (██████████ Attachment 4).

Docket No. 2010-16922 SAS
Decision and Order

6. The Appellant currently uses illegal substances. (Testimony of Appellant).
7. The Appellant has a [REDACTED], who is the father of her two minor children. (Testimony of Appellant).
8. The Appellant's live-in boyfriend, [REDACTED], provides the Appellant with the illegal substances to which she is addicted. (Testimony of Appellant).
9. In [REDACTED] the Appellant was authorized for and received residential detoxification services, but immediately returned to illegal substance addiction. ([REDACTED] Attachment 7).
10. The Appellant was assessed by [REDACTED] on [REDACTED], after her request to receive methadone. ([REDACTED] Attachment 4).
11. The results of Appellant's [REDACTED] assessment determined that she was not eligible for outpatient methadone. The result of Appellant's [REDACTED] assessment resulted in the authorization of residential detoxification treatment. ([REDACTED] Attachment 4).
12. On [REDACTED], the Appellant was sent a notice that her OMT request was denied, and instead detoxification was approved. ([REDACTED] Attachment 5).
13. The Appellant refused the authorization for residential detoxification. (Testimony of Appellant).
14. On [REDACTED], the Department received the Appellant's request for an Administrative hearing. ([REDACTED] Attachment 6).
15. The Appellant contests the denial of methadone in part because her live-in boyfriend receives methadone and she believes she should also receive methadone. ([REDACTED] Attachment 6).

CONCLUSIONS OF LAW

The Medicaid program was established pursuant to Title XIX of the Social Security Act (SSA) and is implemented by 42 USC 1396 *et seq.*, and Title 42 of the Code of Federal Regulations (42 CFR 430 *et seq.*). The program is administered in accordance with state statute, the Social Welfare Act (MCL 400.1 *et seq.*), various portions of Michigan's Administrative Code (1979 AC, R 400.1101 *et seq.*), and the state Medicaid plan promulgated pursuant to Title XIX of the SSA.

Subsection 1915(b) of the SSA provides, in relevant part:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this

██████████
Docket No. 2010-16922 SAS
Decision and Order

title, may waive such requirements of section 1902 (other than subsection(s) 1902(a)(15), 1902(bb), and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C)) as may be necessary for a State –

- (1) to implement a primary care case-management system or a specialty physician services arrangement, which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain medical care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary.

Under approval from the Center for Medicare and Medicaid Services (CMS), the Department (MDCH) presently operates a Section 1915(b) Medicaid waiver referred to as the managed specialty supports and services waiver. A prepaid inpatient health plan (PIHP) contracts (Contract) with MDCH to provide services under this waiver, as well as other covered services offered under the state Medicaid plan.

Pursuant to the Section 1915(b) waiver, Medicaid state plan services, including substance abuse rehabilitative services, may be provided by the PIHP to beneficiaries who meet applicable coverage or eligibility criteria. *Contract FY 2009, Part II, Section 2.1.1, p 27.* Specific service and support definitions included under and associated with state plan responsibilities are set forth in the Mental Health/Substance Abuse Chapter of the Medicaid Provider Manual (MPM). *Contract FY 2009, Part II, Section 2.1.1, p 27.*

Medicaid-covered substance abuse services and supports, including Office of Pharmacological and Alternative Therapies (OPAT)/Center for Substance Abuse Treatment (CSAT) – approved pharmacological supports may be provided to eligible beneficiaries. *MPM, Mental Health/Substance Abuse Chapter, §§ 12.2, October 1, 2011, p 65.*

OPAT/CSAT-approved pharmacological supports encompass covered services for methadone and supports, and associated laboratory services. *MPM, Mental Health/Substance Abuse Chapter, §§ 12, October 1, 2011, OPAT/CSAT subsection.* Opiate-dependent patients may be provided therapy using methadone or as an adjunct to other therapy.

The evidence in this case indicates Appellant is a ██████████ mother of two minor children who also has a history of substance abuse. The Appellant has a ██████████ live-in boyfriend and she testified at hearing that the live-in boyfriend provides her with substances to which she is addicted. Respondent contends that Appellant's OMT was appropriately terminated because the Appellant demonstrated continued clinical non-compliance.

██████████
Docket No. 2010-16922 SAS
Decision and Order

In Appellant's written request for hearing and during the hearing the Appellant stated that she contested the denial of methadone because she did not agree with the ██████████ denial notice reasons for denial: lack of related legal history and lack of significant abstinence based treatment attempts. ██████████ Attachments 5, 6).

The Respondent ██████████ and ██████████ responded that its denial decision is based on several policy factors: the Code of Federal Regulations, the Medicaid Provider Manual, and the MDCH "Enrollment Criteria for Methadone Maintenance and Detoxification Program". (██████████ Attachments 1-3). The Respondent demonstrated through testimony and document evidence that ██████████ is allowed to limit its services to those that are medically necessary, that medical necessity can be denied if methadone is deemed ineffective and there is a more effective treatment to offer, and admission to OPAT/CSAT methadone treatment can be denied where a person continues to use substances despite being offered treatment. The Criteria requires several criteria must be met before methadone treatment can be authorized:

Enrollment Criteria –

Decision to enroll a client for methadone maintenance must be medically necessary as defined by a LOC determination using all six dimensions of the ASAM Patient Placement Criteria...

- *(Enrollment Criteria for Methadone Maintenance and Detoxification Program, 01/01/2008 revision, p 3)*

Respondent's witnesses testified that on ██████████ the Appellant was assessed using all six dimensions of ASAM as required by Department policy. ██████████ Attachments 4 and 7). Witness ██████████ testified that a significant factor in the decision to deny methadone is Appellant's lack of significant abstinence based treatment attempts. (██████████ attachments 5, 6). Witness ██████████ introduced evidence that Appellant entered a residential detoxification program in ██████████ but immediately returned to substance abuse on leaving the residential detoxification. Appellant's failed success at the more structured residential detoxification, coupled with the fact she has two minor children, demonstrated to ██████████ that methadone treatment was not appropriate for Appellant's opioid dependence. ██████████ demonstrated that residential detoxification, where Appellant was isolated from a person who significantly provides and participates in substance abuse is the appropriate, medically necessary treatment.

The Appellant testified that she refused residential detoxification because she has to care for her children. However, Appellant also stated the father of the children could watch the children while she is in residential detoxification. It is noted that the father of the children lives in the same home. The Respondent added that there are residential detoxification programs where Appellant could bring her children, so children is not an excuse for not participating in residential detoxification.

Docket No. 2010-16922 SAS
Decision and Order

To the Appellant's argument that her boyfriend receives methadone so she should too, the Respondent pointed out that substance abuse treatment is individualized, and Appellant's assessment determined the medically necessary treatment was residential detoxification.

The Appellant bears the burden of proving, by a preponderance of evidence, that she met all the criteria for methadone treatment. The Appellant did not meet her burden.

The Respondent provided sufficient evidence that its decision to deny OMT, was proper and in accordance with the federal regulations, and Department policy. This means that [REDACTED] properly denied Appellant outpatient methadone treatment and approved residential detoxification.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly denied Appellant's outpatient methadone treatment program.

IT IS THEREFORE ORDERED THAT:

Respondent's decision is AFFIRMED.

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

cc:



Date Mailed: 5/2/2011

***** NOTICE*****

The Michigan Administrative Hearings System 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 & Order. The Michigan Administrative Hearings System 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.