

██████████
Docket No. 2011-2180 MHF
Decision and Order

notification of Appellant's annual ability to pay of \$ ██████████. (Exhibit A, sub A).

6. On ██████████, the Department received a copy of Appellant's request for an administrative hearing filed by ██████████. (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. Section 804 states:

- (1) A responsible party is financially liable for the cost of services provided to the individual directly or by contract with the department or a community mental health services program.

The Department established that the Appellant is a "responsible party" and that he received inpatient psychiatric services provided by the Department for which he is financially liable.

The Department is mandated by state law to determine the Appellant's ability to pay:

- (1) The department or a community mental health services program shall determine an adult responsible party's ability to pay for residential services and inpatient services other than psychiatric inpatient services of less than 61 days by taking into consideration the adult responsible party's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

MCL 330.1819

The Department witness testified that he performed an ability to pay determination for the Appellant. In calculating the financial determination the Department determined Appellant's annual ability to pay as ██████████. This was based on the total of the Appellant's net assets determined to be \$ ██████████ less the Appellant's net income of ██████████ for the total annual ability to pay of \$ ██████████.

The Department's reimbursement staff considered Appellant's liabilities as well as his income and assets when determining his annual financial determination. (Exhibit A, sub A - N).

The Appellant's ██████████ testified that there is no money to pay this annual determination until the Appellant returns home and sells his residence. She said his remaining assets are protected by court order and that she is prohibited from "touching" his assets, including her ██████████ TESPHE account. See Appellants Exhibit #1 at page 3.

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

¹ A Ford Motor Co. IRA account

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 [REDACTED]. 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:

[REDACTED]

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.