

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING 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:

Docket No. 2012-21513 MHT

██████████,

Appellant

\_\_\_\_\_ /

**DECISION AND ORDER**

This matter is before the Administrative Tribunal pursuant to the provisions of MCL 330.1407, and Chapter 4 of the Administrative Procedures Act of 1969, as amended, MCL 24.271 *et seq.*

After due notice, a telephone hearing was held ██████████. ██████████, Transfer Coordinator, ██████████ was present on behalf of the Department. ██████████, Clinical Social Worker and NGRI Liason was present on behalf of the Department. ██████████ Admission and Transfer Coordinator for ██████████, was present.

**ISSUE**

Did the Department properly transfer the Appellant to the ██████████?

**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 resident of the ██████████.
2. The Appellant is currently on a one year continuous treatment order dated ██████████. The Appellant previously had been found Not Guilty By Reason of Insanity (NGRI) in a criminal matter.
3. The Appellant was released from the hospital into a supervised community placement residence under an ALS contract pursuant to his continuing treatment order.
4. The continuing treatment order stipulates that if he violates any of the terms in the ALS agreement he may be returned to the hospital immediately.
5. On ██████████, the staff involved in supervising the Appellant in the community advised the ██████████ staff that the Appellant had violated his

ALS contract.

6. The Appellant was escorted back to [REDACTED] [REDACTED], after a transfer order had been obtained and with the permission of Community Mental Health.
7. The Appellant was evaluated at [REDACTED] and it was determined clinically appropriate to transfer him to the [REDACTED]. He was thereafter transferred and appeals this transfer.
8. The staff of the group home where the Appellant was residing became fearful of him after he telephoned the manager confronting her, yelling loudly, cursing and swearing at her.
9. The Appellant's transfer from the community back to [REDACTED] was pursuant to an ALS contract he was deemed in violation of.
10. The Appellant has the right to appeal the transfer from [REDACTED] to the [REDACTED].

### **CONCLUSIONS OF LAW**

A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer.

*MCL 330.1407*

- (1) An individual is subject to being returned to a hospital if both of the following circumstances exist:
  - (a) The individual was admitted to the hospital by a judicial order.
  - (b) The individual has left the hospital without authorization, or has refused a lawful request to return to the hospital while on an authorized leave or other authorized absence from the hospital.
- (2) The hospital director may notify peace officers that an individual is subject to being returned to the hospital. Upon notification by the hospital director, a peace officer shall take the individual into protective custody and return the individual to the hospital unless contrary directions have been given by the hospital director.

*MCL 330.1408*

R 330.4011 Transfer between state hospitals.

Rule 4011. (1) A patient may be transferred between hospitals, including the university of Michigan neuropsychiatric institute or other facilities of the department which are not hospitals, for administrative reasons or for good and sufficient clinical reasons when approved by the department. Approval by the department shall be expressed by an order of transfer, a copy of which shall be forwarded to the director of each hospital involved. Prior to approval or denial of the transfer, the department shall consult with the contractually responsible county community mental health program. A request for a transfer may be submitted by a hospital director, a patient, or other interested person.

(2) Before an approved transfer is acted upon, the director of the hospital in which the patient is currently residing shall notify in writing, not less than 7 days prior to transfer, the patient and his guardian or his nearest relative and up to 2 other persons designated by the patient, except if the transfer is necessitated by an emergency as determined by the hospital director and documented in hospital records. Under emergency circumstances, the hospital director shall effect a transfer as soon as necessary and issue the appropriate notices not more than 24 hours after transfer.

(3) The notification period of not more than 7 days prior to transfer may be reduced if the patient or his guardian or nearest relative approves the transfer in person, by telephone, or in writing, and this approval is documented. Written approval shall be obtained as soon as administratively possible.

(4) Notice of transfer by a hospital director shall inform the patient and his guardian or nearest relative of the right to object to the transfer. Upon receipt of a written objection, an appeal hearing shall be held promptly, under procedures established by the department. If an objection is made; transfer shall be delayed until a ruling of the appeal hearing indorses it, unless an emergency as determined and documented by the hospital director necessitates an immediate transfer. An emergency transfer is revocable by decision of the director of the department or by order of the appeal referee.

(5) Administrative transfer of a patient to another department hospital for purposes of supervision in connection with convalescent leave or other community placement may be appealed if it is alleged that the supervision or administrative control of the leave or placement, by the hospital to which the administrative transfer is made, and not the leave or placement itself would be detrimental to the patient.

(6) Each hospital shall establish procedures through which patients, guardians, or responsible relatives may participate in the planning or selection of a leave or placement.

The following facts are not in dispute. The Appellant was adjudicated Not Guilty By Reason of Insanity (NGRI). Subsequently, the Appellant's custody was remanded to the State Hospital System for treatment. Following years of treatment in the State Hospital System, he was placed into the community pursuant to an ALS contract, referenced in his continuing treatment order dated [REDACTED]. While residing in the supervised community setting, he angrily confronted an employee of the group home via telephone. He caused the employees to fear him due to his behavior. He was deemed to be in violation of his ALS contract and transferred back to [REDACTED]. He was evaluated there and it was determined clinically appropriate to transfer him to the [REDACTED] for treatment.

At hearing the Appellant asserted there was no good basis to bring him back from the community to [REDACTED] and furthermore, no reason to transfer him from there back to [REDACTED]. He said he wanted to appeal "all of it." His placement in the community was pursuant to an ALS contract and order of the probate court. This ALJ has no jurisdiction to determine whether he was properly or improperly brought back from the community to [REDACTED]. He was evaluated there and it was determined clinically necessary and appropriate to transfer him to the [REDACTED] for further treatment. This transfer can be considered in this forum. The Appellant did contest the transfer by asserting all he did was confront the group home manager about being late for school. He was dependant on her for transportation to school and she was always making him late. He admitted she knew he was angry when he called her. He asserts the fear was unwarranted and is due to his size. He asserted the staff member was fired a few days later. He denied police involvement and stated his family drove him back to the hospital days after the telephone call, showing no need for a transfer.

On or about [REDACTED], it was determined, based on the information available at that time, the Appellant had decompensated and an emergency transfer was necessary. The Department has shown there were good and sufficient clinical reasons for his transfer, as evidenced by his outburst in the community and the police involvement as a result of the incident. This ALJ finds the evidence presented by the Department witnesses and documentation reveals good and sufficient clinical reasons were found and considered for his transfer, thus the criteria is satisfied. The Appellant did not meet his burden of showing the Department's transfer was in error or not supported by competent, credible evidence.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department of Community Health did properly transfer the Appellant to the Center for Forensic Psychiatry.

**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.

[REDACTED]

Docket No. 2012-21513 MHT  
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Jennifer Isiogu  
Administrative Law Judge

cc:

[REDACTED]

Date Mailed: 3/8/2012

