

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
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IN THE MATTER OF

Docket No. 2012-40884 CMH
Case No. [REDACTED]

[REDACTED]

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.

After due notice, a hearing was held on [REDACTED] Appellant's Direct Care Worker at [REDACTED] appeared and testified for the Appellant. Appellant [REDACTED] was present but declined to testify.

[REDACTED], Medicaid Fair Hearings Officer, appeared and testified for the Detroit-Wayne County Community Mental Health Agency (Agency/CMH). [REDACTED] a psychiatrist with Gateway Community Health, appeared as a witness for the Agency.

ISSUE

Was the CMH's termination of the Appellant's Medicaid covered skill-building services in accordance with policy?

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] Medicaid beneficiary, [REDACTED]
2. Detroit-Wayne County Community Mental Health contracts with Gateway Community Health (Gateway) who is Appellant's Managed Comprehensive Provider Network (MCPN) to manage the services that the CMH authorizes.
3. Appellant has been receiving Medicaid covered skill building services through the STEP program and case management. [REDACTED]

4. A review of Appellant's skill building services was conducted at Gateway and it was determined that Appellant no longer showed a need for skill building services and that he should be given a reduced level of services.
[REDACTED]
5. On [REDACTED], Gateway sent the Appellant an advance action notice that his CMH skill building services were being denied effective [REDACTED]. The reason given was the Appellant was using alcohol and crack and refusing treatment. The Appellant had also indicated he wanted to remain at STEP and was not interested in community employment. As for the Appellant's progress, it was noted he was only able to stay on track [REDACTED] of the time and needed to be redirected to start and finish his assigned tasks. The notice included Appellant's rights to a fair hearing.
[REDACTED]
6. The Appellant's request for hearing was received by MAHS on [REDACTED].
[REDACTED]

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. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Community Health (MDCH) operates a section 1915(b) Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the Michigan Department of Community Health to provide services under the waiver pursuant to its contract obligations with the Department.

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. Services must be provided in the appropriate scope, duration, and intensity to reasonably achieve the purpose of the covered service. See *42 CFR 440.230*.

The evidence presented in this case demonstrates that on March 12, 2012 Appellant was sent an Advance Action Notice that his skill building services were to be terminated effective April 1, 2012. The Appellant appealed the denial on March 19, 2012.

The *Medicaid Provider Manual, Mental Health/Substance Abuse, April 1, 2012, pp. 120 and 121*, states:

17.3.K. SKILL-BUILDING ASSISTANCE

Skill-building assistance consists of activities identified in the individual plan of services and designed by a professional within his/her scope of practice that assist a beneficiary to increase his economic self-sufficiency and/or to engage in meaningful activities such as school, work, and/or volunteering. The services provide knowledge and specialized skill

development and/or support. Skill-building assistance may be provided in the beneficiary's residence or in community settings.

Documentation must be maintained by the PIHP that the beneficiary is not currently eligible for sheltered work services provided by Michigan Rehabilitation Services (MRS). Information must be updated when the beneficiary's MRS eligibility conditions change.

Coverage includes:

- Out-of-home adaptive skills training: Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; and supports services incidental to the provision of that assistance, including:
 - Aides helping the beneficiary with his mobility, transferring, and personal hygiene functions at the various sites where adaptive skills training is provided in the community.
 - When necessary, helping the person to engage in the adaptive skills training activities (e.g., interpreting).

Services must be furnished on a regularly scheduled basis (several hours a day, one or more days a week) as determined in the individual plan of services and should be coordinated with any physical, occupational, or speech therapies listed in the plan of supports and services. Services may serve to reinforce skills or lessons taught in school, therapy, or other settings.

- Work preparatory services are aimed at preparing a beneficiary for paid or unpaid employment, but are not job task-oriented. They include teaching such concepts as attendance, task completion, problem solving, and safety. Work preparatory services are provided to people not able to join the general workforce, or are unable to participate in a transitional sheltered workshop within one year (excluding supported employment programs).

Activities included in these services are directed primarily at reaching habilitative goals (e.g., improving attention span and motor skills), not at teaching specific job skills. These services must be reflected in the beneficiary's person-centered plan and directed to habilitative or rehabilitative objectives rather than employment objectives.

- Transportation from the beneficiary's place of residence to the skill building assistance training, between skills training sites if applicable, and back to the beneficiary's place of residence.

Coverage excludes:

- Services that would otherwise be available to the beneficiary.

The CMH witness [REDACTED], a psychiatrist with Gateway, stated the action taken in this case was to authorize a lesser level of services and to terminate Appellant's skill building services. [REDACTED] stated the Appellant had been in the skill building program for quite some time and his behaviors have not changed as the result of his involvement in the skill building services. [REDACTED] also stated that it was reported to them that the Appellant drinks alcohol and was using illicit drugs.

[REDACTED] stated based on his review of the Appellant's case, he did not appear to have any further need to continue with the skill building services. [REDACTED] stated in his opinion, the Appellant should have his skill building services terminated and be given a decreased level of services. [REDACTED] stated his decision was based on all of the Appellant's clinical records that were contained in the Appellant's file including the records received from Gateway. [REDACTED] stated he was a physician reviewer, and his decision was based on a review of the Appellant's records without any personal examination.

[REDACTED] testified she was Appellant's Direct Care Worker at [REDACTED] the adult foster care home where the Appellant currently resides. [REDACTED] stated she believed some of the information the doctor reviewed from Gateway was inaccurate. [REDACTED] stated the Appellant was still working one day per week at the STEP program. She agreed they had reduced his skill building services to transition him out of the program. He previously had been attending skill building services three days per week.

[REDACTED] asserted there was an agreement between the Appellant, his case manager and his therapist, to the effect if Appellant was to go to the AA meetings and sees his therapist once a week that these matters could be resolved. [REDACTED] testified the Appellant was not making a lot of money at the skill building program and his SSI check was already short, and he couldn't take the whole responsibility of making sure his rent was paid every month.

[REDACTED] stated the program gives the Appellant some self esteem, being able to go to work and making him feel like he is somebody. She said they speak highly of the Appellant at the skill building program, and the program gives the Appellant something to look forward to doing.

[REDACTED] did acknowledge the Appellant has an addiction and that he was drinking alcohol and bringing liquor bottles into the AFDC home. [REDACTED] stated she doesn't

know anything about the Appellant using crack cocaine. The Appellant stated he was satisfied with the hearing and declined to offer any testimony.

A review of the evidence presented in this case shows that the Appellant has been in the skill building program for a long period of time and he has not shown improvement. In the doctor's professional opinion the Appellant no longer showed the need for the skill building program, and he recommended that it be terminated and the Appellant be given a decreased level of services.

It is further noted that the skill building program is not a substitute for a place for people to go to work. Skill building services are work preparatory services aimed at preparing a beneficiary for paid or unpaid employment, they are not job task-oriented. The testimony shows the Appellant was using the skill building program as a place to work and earn money, which is contrary to the purpose of the program.

The evidence shows the Appellant has achieved the maximum benefit from the skill building program, and that he would not benefit from continuing to be in the program. The CMH has acted appropriately by denying additional skill building services and recommending that the Appellant be given a decreased level of services.

The Appellant bears the burden of proving that he meets the medical necessity criteria to continue with the Medicaid-covered skill-building services he has requested. The CMH provided sufficient evidence that medical necessity no longer exists for Medicaid covered skill-building services. Accordingly, the CMH has acted appropriately in terminating the skill building services and recommending that he receive a reduced level of services.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH's termination of Appellant's Medicaid covered skill-building service was in accordance with policy.

IT IS THEREFORE ORDERED that:

The CMH decision is **AFFIRMED**.



William D. Bond
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc:



Date Mailed: 6.11.12

***** NOTICE *****

The Michigan Administrative Hearing 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 and Order. The Michigan Administrative Hearing 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.