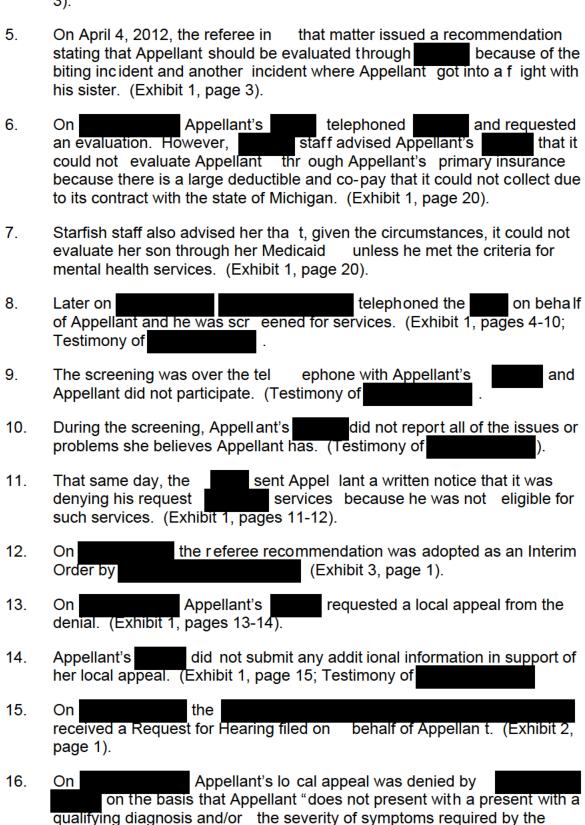
STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM FOR THE DEPARTMENT OF COMMUNITY HEALTH

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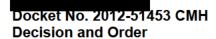
IN THE MA	
	Docket No. 2012-51453 CMH Case No.
Appellant	
	DECISION AND ORDER
	is before the undersigned Administrative Law Judge, pursuant to MCL 400.9 R 431.200 <i>et seq</i> . and upon the Appellant's request for a hearing.
	otice, a hearing wa sheld on eared and testified on Appellant's behalf. appeared on behalf of the also appeared as a witness for the .
ISSUE	
Did t	he properly deny Appellant's request for an evaluation?
FINDINGS	OF FACT
	strative Law Judge, based upon the competent, material and substantial the whole record, finds as material fact:
1.	The is under cont ract with the to provide Medicaid covered services to people who reside in the service area.
2.	Appellant is an (Exhibit 1, page 4) who is insured through both a private company and (E xhibit 1, page 20; Testimony of
3.	On Appellant's school sent a letter stating that he was being suspended from school for one day "for biting a student at school." (Exhibit 1, page 2).
4.	During subsequent proceedings in the involving parenting time bet ween Appellant's Appellant's requested that Appellant be evaluated at for Appellant's aggressive behavior. (Exhibit 1, page

3).



to qualify for

Michigan Mental Code . . . in order



f or Severely Mentally III, (Exhibit 1, pages 16-17).

CONCLUSIONS OF LAW

The Medic al Ass istance Program is establis hed purs uant to Tit le 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 states the 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 Sec urity Act, enacted in 1965, authorizes Federal grants to St ates for medical assist ance 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. Paymen ts 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 comp rehensive 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 F ederal financial participation (FFP) in the State program.

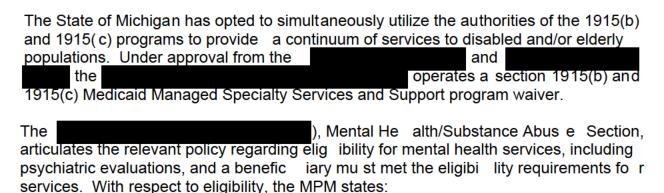
(42 CFR 430.10)

Section 1915(b) of the Social Security Act provides:

The Secret ary, 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 r equires provision of the care and services described in section 1 396d(a)(2)(C) of this title) as may be necessary for a State...

(42 USC 1396n(b))



1.6 BENEFICIARY ELIGIBILITY

A Medicaid beneficiary with mental illness, serious emotional disturbance or developmental dis ability who is enrolle d in a Medicaid Health Plan (MHP) is eligible for specia Ity mental health s ervices and supports when his needs exceed the MHP benefits. (Refer to the M edicaid Health Plans Chapter of this manual for additional information.) Such need must be documented in the individual's clinical record.

(MPM, Mental Health/Substance Abuse Section January 1, 2011, page 3)

Here, Appellant is not eligible for services because he cannot demonstrate that he has a mental illness, serious emotional disturbance or developm ental disability. The state of Michigan's Mental Health Code defines those first two conditions as follows:

(2) "Serious emotional dist urbance" means a diagnosable mental, behavioral, or emotional disorder affecting a minor that exists or has existed during the past year for a period of time sufficient to meet diagnos tic criteria specifie d in the most recent diagnos tic and stat istical manual of mental disorders published by the American psychiatric association and approved by the department and that has resulted in functional impairment that subs tantially int erferes with or limits the minor's role or functioning in family, school, or community activities. The following disor ders are included only if they occur in conjunction with another diagnosable serious emotional disturbance:

- (a) A substance abuse disorder.
- (b) A developmental disorder.
- (c) "V" codes in the diagnos tic and statistical manual of mental disorders.
- (3) "Serious mental illness" means a diagnos able mental, behavioral, or emoti onal disor der affecti ng an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic cr iteria spec ified in the most recent diagnostic and statistica I manual of mental dis orders published by the American psych iatric association and approved by the depar tment and that has resulted in functional impairment that subs tantially int erferes with or limits 1 or more major life acti vities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behav ioral distur bance but does not include any other dementia unless the dementia oc curs in conjunction with another di agnosable serious mental illness. The following disorders also are included only if they occur in conjunction with another diagnosable serious mental illness:
 - (a) A substance abuse disorder.
 - (b) A developmental disorder.
 - (c) A "V" code in the diagn ostic and statistical manual of mental disorders.

(MCL 330.1100d)

Additionally, w ith res pect to d evelopmental di sabilities, the Mental H ealth C ode provides:

- (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 fund	c tional limitations	in 3 or more
of the following areas of majo	r 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 t hat are of lifelong or ext ended duration and are individually planned and coordinated.
- (b) If applied to a minor from birth to 5 years of age, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined in subdivision (a) if services are not provided.

(MCL 330.1100a(21))

did not make the initial decision to In this case, the deny services or the subsequent denial of A ppellant's local appeal. However, she did review those decisions and agrees with them for the reasons offered by the people who actually made the decisions. During the hearing, testif ied that, per its records, the screening of Appellant revealed no definitive diagnoses for Ap pellant. Similarly, the screening failed to identify any mental health services Appellant was receiving or any medications he is on. Instead, the found that Appellant has merely had a couple of behavioral disturbances, including one incident where he bit a classmate. There are no chronic or severe problems, and Appellant is functioning normally. In respons e, Appellant's argued t hat she k nows Appell ant does not have a specific diagnosis or treatment yet, but that the whole point of requesting an evaluation is to get such a diagnosis and determine if tr eatment is necessary. She is not a doctor and cannot diagnose or address Appellant's issues on her own. Appellant's al so test ified that, while Appellant has aggressive behaviors, his

problems go beyond a few instances of aggre ssive behavior. F or example, Appellant was developmentally delayed, especially in the areas of speech and language, and he attended special education until the second grade. He also ac to like a younger child or

baby at times. He is separ ated from at least one parent at all times given the parents and reacts poorly to that separation.			
Appellant's further ar gues that much of the inf ormation recorded in the clinic al screening is incorrect or incomplete. However, she also concedes that much of that information was given to the screener by her. She could expl ain why she answered "no" to a number of questions why the answer should have been "yes". With respect to other incorrect or incomplete answers, during the screening.			
Appellant bears the bur den of proving by a preponderance of the evidence that the erred in deny ing the request for services. In t his case, Appellant has failed to meet that burden of proof. The is Administrative Law Judge's jurisdiction is limited to reviewing the services decision in light of the information available at the time it made it services. Here, that information was provided by Appellant's and it clearly demonstrates that, while he has been aggressive at times, he did not meet the criteria for services. Therefore, the decision must be affirmed.			
To the extent Appellant's condition has worsened since the denial or his additional information she wants to provide, they must make a new request to the for services. During the hearing, Respondent's representative and witness testified that Appellant and his could make another request at any time.			
DECISION AND ORDER			
The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the properly denied Appellant's request for services given the information available at the time it made its decision.			
IT IS THEREFORE ORDERED that:			
The CMH decision is AFFIRMED.			
Steven J. Kibit Administrative Law Judge for Olga Dazzo, Director Michigan Department of Community Health			
cc:			

Date Mailed:	

*** 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.