

**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. 2012-41229 CMH

██████████

██████████

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 ██████████. Appellant ██████████ appeared and testified in her own behalf. The Appellant's sister ██████████ also testified for the Appellant.

██████████, Medicaid Fair Hearings Officer, appeared and testified for the ██████████ County Community Mental Health Agency (Agency). ██████████, M.D., a psychiatrist with ██████████ 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 ██████ year-old Medicaid beneficiary, (DOB 9/9/1953). (Exhibit 3 & Testimony). Appellant's diagnoses are schizoaffective disorder, bipolar type, mild mental retardation, closed head injury, seizure disorder, and moderate-chronic mental illness. (Exhibits 3 & 4).
2. ██████████ County Community Mental Health contracts with ██████████ Community Health ██████████ who is Appellant's Managed Comprehensive Provider Network (MCPN) to manage the services that the CMH authorizes. ██████████ contracts with North Central Health Center (NCHC) to provide mental health services to Medicaid eligible beneficiaries. Appellant was

- receiving services from NCHC including skill-building services. (Exhibits 1-4 and testimony).
3. Appellant lives in an upper living space above her older sister [REDACTED] (Testimony).
 4. Appellant has been receiving skill building services through the NCHC program since [REDACTED]. (Exhibit 3 and Testimony).
 5. A review of Appellant's skill building services was conducted at Gateway and it was determined that Appellant had met her optimum level from the skill building services and that drop in center or clubhouse would better meet the Appellant's needs. (Exhibits 1-3, 5 and testimony).
 6. On [REDACTED] sent the Appellant an adequate action notice that her CMH skill building services were terminated effective [REDACTED] (Exhibit 2). The reason given was the consumer is able to complete ADLS, iron, sweep, mop and cook a bit. The consumer is able to run errands and pick up small items at the store. The consumer denies current symptoms. The consumer has her GED. The notice included Appellant's rights to a fair hearing. (Exhibit 2 and testimony).
 7. The Appellant's request for hearing was received by MAHS on [REDACTED] [REDACTED] (Exhibit 7).

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 CMH witness [REDACTED], a psychiatrist with [REDACTED] stated a case review was done for the Appellant to reassess whether she should continue to receive skill building services. [REDACTED] found the Appellant no longer had the clinical needs for the skill building services and that her needs would be better met through the clubhouse program. Accordingly, her skill building services were terminated, and the Appellant appealed from the termination of these services.

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.

██████████, a psychiatrist with ██████████ stated a case review was done for the Appellant to reassess whether she should continue to receive skill building services. ██████████ stated the Appellant had been receiving skill building since ██████████. The review showed the Appellant was able to complete ADLS, iron. sweep, mop and cook a bit. She was able to run errands and pick a few things up at the store. ██████████ stated she was not having any current mental health symptoms. He stated she also has her GED.

██████████ stated the Appellant's accomplishments far exceed the benefits she would expect to get from skill building services. ██████████ recommended that the Appellant be considered for clubhouse. Clubhouse is a program that allows for socialization, group therapy type activities, and introduction to various work programs. The program is ██████████ days a week, similar to the skill building program and is run by the same people that run the skill building program at NCHC. ██████████ stated he was making a clinical decision. He stated the Petitioner no longer has the clinical needs for the skill building services and clubhouse would be more suited to the Appellant's needs.

The Appellant testified that there are things she understands and things she doesn't understand. She said she wants to come back to the skills building program. Appellant wants to learn more things such as how to knit and how to make pillows.

██████████ Appellant's older sister stated the Appellant lives upstairs from her in her own living space. Appellant is not allowed to have a cooking stove upstairs since she almost burned the house down. ██████████ stated the Appellant was doing very well at skill building. However, due to being brain damaged from a car accident, she can learn things but will then forget them and will have to learn them again.

██████████ stated ██████████ may be right that the Appellant should be put in clubhouse. ██████████ stated it is a different program, and Appellant was already familiar with the people at skill building. She stated she was somewhat concerned with

the Appellant having to go to a new group. Appellant should not be allowed to go anywhere on her own as she doesn't know her way around.


The Appellant bears the burden of proving that she meets the medical necessity criteria to continue the Medicaid-covered skill-building services. The CMH provided sufficient evidence that medical necessity no longer exists for Medicaid covered skill-building services. The testimony of the Appellant and her sister does not change the CMH's decision that medical necessity no longer exists for the Appellant to continue receiving skill building 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 to 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:5-14-12

***** 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.