

**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-
Case No. 19854538

[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]. [REDACTED] Appellant's Case Manager with TEAM Mental Health Services appeared and testified for the Appellant. Appellant [REDACTED] also testified in his own behalf.

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

ISSUE

Was the CMH's reduction 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] year-old Medicaid beneficiary, [REDACTED] (Exhibits 3-4 and testimony). Appellant's is diagnosed with schizophrenia. (Testimony).
2. Detroit-Wayne County Community Mental Health contracts with [REDACTED] Community Health [REDACTED] who is Appellant's Managed Comprehensive Provider Network (MCPN) to manage the services that the CMH authorizes. [REDACTED] contracts with TEAM Mental Health (TEAM) to provide mental health services to Medicaid eligible beneficiaries. Appellant was receiving services through TEAM including skill-building services. (Exhibits 1-7 and

- testimony).
3. Appellant has been receiving skill building services since [REDACTED]. (Exhibits 1, 2, 5 and Testimony).
 4. A review of Appellant's skill building services was conducted at [REDACTED] and it was determined that Appellant had met his maximum benefit from the skill building services and that Michigan Rehabilitation Services and Drop-In Center or Club House would better meet the Appellant's needs. (Exhibits 1-3, 5 and testimony).
 5. On [REDACTED], [REDACTED] sent the Appellant an advance action notice that his CMH skill building services were being reduced effective [REDACTED] [REDACTED] from two down to one day per week. (Exhibit 5). The reason given was the consumer had been attending since [REDACTED] and had only shown 5 to 10% improvement. The notice indicated the Appellant may benefit from participation in a Club House or Drop-In Center. The notice included Appellant's rights to a fair hearing. (Exhibit 5 and testimony).
 6. The Appellant's request for hearing was received by MAHS on [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 Dr. ██████████ a psychiatrist with ██████████, stated case reviews were done to determine whether Appellant should continue to receive skill building services. The Appellant has been in skill building since ██████████ and Dr. ██████████ did not believe he would benefit further by remaining in the skill building program. Dr. Amirsadri stated the Appellant was being reduced from two days down to one day per week to transition him into a less restrictive program such as the Club House. The Appellant has appealed from this reduction.

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 Dr. ██████████ a psychiatrist with ██████████ stated case reviews were done to determine whether the Appellant should continue to receive skill building services. He stated the Appellant had been in skill building since ██████████ Dr. ██████████ stated Appellant has been diagnosed with schizophrenia, and that there may be a dual diagnosis of substance abuse, cocaine dependence.

Dr. ██████████ stated Michigan Rehabilitation Services would be a much better fit for the Appellant since after eight years in the skill building services he has not really improved on the goals set down eight years ago. Dr. ██████████ stated there was no justification for the Appellant to continue going to the program. He stated the program is not designed to provide job opportunities; rather it is designed to improve the Appellant's cognitive functioning and his abilities to function. Dr. ██████████ stated the records provided to them do not show that the Appellant has made the desired improvement, so he believes the Appellant's services must change for purposes of socialization. Accordingly, the Appellant was being reduced from two days down to one day per week in order to transition him into a less restrictive program such as the Club House program.

██████████ stated she was Appellant's Case Manager with TEAM Mental health Services. Ms. ██████████ stated Appellant's person centered plan provides that the Appellant desires to continue attending the skill building services. Ms. ██████████ stated Appellant has shown some improvement from the skill building services, just not as quickly as ██████████ would like.

Ms. ██████████ stated the Appellant is chronically mentally ill. He has improved since being in the program. She stated Appellant follows directions, he is cooperative, and works well with others. Appellant is no longer responding to his "commanding voices". She stated the Appellant is capable of working in the future. Ms. ██████████ stated she did not believe it would be beneficial for Appellant to discontinue his skill building services at this time. She suggested continuing the services for ██████████ more months to a year and then transitioning the Appellant to Michigan Rehabilitation Services.

The Appellant testified he does his work while attending the program. He doesn't bother other clients. He stated he does all of his work there, as he is instructed to do. He doesn't have any problems working there at all. Appellant denied doing drugs. He stated he only used crack cocaine a couple of times back in ██████████

Appellant stated the skill building program is helping him. He stated he is not ready for Club House. He did not believe it would be beneficial for him to go to Club House at this time. He stated he is familiar with Club House and they don't make money there, they just sit around and that is not what he wants. Appellant stated he wants to continue to go and work at the skill building program.

Dr. ██████████ responded that the skill building program is not a substitute for a place for people to go to work. Dr. ██████████ noted that the Appellant continued to refer to the skill building program as his work place. Dr. ██████████ stated that being in the program for eight years is a long duration for any individual, and there is nothing to show that individuals will continue to improve after being in the program for that length of time. Dr. ██████████ stated there are other opportunities that they can provide for the Appellant, but they are not going to continue him in the skill building program.

The Appellant is still approved for one day per week of skill building services. Reducing the skill building services to one day a week will provide an appropriate level of services to allow the Appellant to be transitioned into other less restrictive programs which will meet his current needs. The evidence shows the Appellant has achieved the maximum benefit from the skill building program after ██████████ ██████████ and that he would not benefit from being in the program for an additional six months to a year as suggested by his case manager. The CMH has acted appropriately in reducing the services to one day per week, which is sufficient to allow for transitioning the Appellant to a new less restrictive program more suited to his current needs.

The Appellant bears the burden of proving that he meets the medical necessity criteria to have the additional 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 at the level of two days per week.


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.

[REDACTED]
Docket No. 2012-46129 CMH
Hearing Decision & Order

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: 5-30-12

***** 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.