

**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. 2012-58105 ABW
No. [REDACTED]

[REDACTED] Case
Appellant
_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, upon the Appellant's request for a hearing.

After due notice, a hearing was held on [REDACTED]. [REDACTED] appeared on behalf of Appellant, [REDACTED] (Appellant). [REDACTED] Customer Service Specialist, represented Respondent, [REDACTED] (CMH or Respondent). [REDACTED] LMSW, ACSW, QMHP/QMRP; [REDACTED] LMSW, QMHP/QMRP; and [REDACTED], LMSW, QMHP/QMRP; appeared as witnesses for the Respondent.

ISSUE

Did the Respondent properly deny Appellant's request for Specialty Services?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Appellant is a [REDACTED], born [REDACTED] (Exhibit A, p 5)
2. Appellant was screened for mental health services through the Northpointe BHS on [REDACTED]. Based on the screening, it was determined that Appellant was not eligible for Medicaid Specialty Supports and Services through CMH because she did not meet the eligibility criteria as someone with a serious mental illness or developmental disability. (Exhibit A, pp 5-11).
3. On [REDACTED] CMH sent Appellant an adequate action notice informing Appellant that she did not meet eligibility criteria for the services requested and that her request was denied. The notice informed Appellant of her right to a fair hearing. (Exhibit A, p 12).

4. Appellant requested a second opinion and on ██████████ a second opinion screening was conducted. The second opinion review upheld the decision of the previous screening that Appellant was not eligible for Medicaid services. (Exhibit A, p 16-23).
5. On ██████████ 2012, CMH sent Appellant an adequate action notice informing her that she did not meet eligibility criteria for the services requested and that her request was denied. The notice informed Appellant of her right to a fair hearing. (Exhibit A, p 24).
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received the Appellant's request for an Administrative Hearing. (Exhibit 2). In the Request for Hearing, Appellant's son-in-law, ██████████ wrote:

I believe I would benefit from North Points Service for Alzheimer's patients. ██████████ has severe anxiety, severe dementia, severe depression, and Alzheimer's disease with angry outburst, repetitive questioning, incontinence of urine and stool during the day and especially at night caused by diabetic neuropathy and severe dementia. She has had 1 past heart attack and these stimulating activities would benefit her greatly. (Exhibit 2)

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—

Under approval from the Center for Medicaid and Medicaid Services (CMS) the Michigan Department of Community Health (MDCH) operates a section 1915(b) waiver called the Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the MDCH to provide services under the Managed Specialty Service and Supports Waiver and other State Medicaid Plan covered services. CMH must offer, either directly or under contract, a comprehensive array of services, as specified in Section 206 of the Michigan Mental Health Code, Public Act 258 of 1974, amended, and those services/supports included as part of the contract between the Department and CMH.

The definition section contained in the Mental Health Code, specifically MCL 330.1100d(3), defines “Serious mental illness” as follows:

330.1100d Definitions; S to W.
Sec. 100d.

* * * *

(3) “Serious mental illness” means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed within the past year for a period of time sufficient to meet diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and approved by the department and that has resulted in functional impairment that substantially interferes with or

limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance but does not include any other dementia unless the dementia occurs in conjunction with another diagnosable 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 diagnostic and statistical manual of mental disorders.

* * * *

The CMH representatives testified that for Appellant to be eligible for Specialty Services, she would need to have a serious mental illness, as defined above, plus the Alzheimer’s/dementia that she currently suffers from. The CMH representatives indicated that based on the information presented at the initial screening on ██████████ ██████████, as well as the second opinion screening done on ██████████ ██████████, as well as a further review of both screenings by the Department, the Appellant did not meet the criteria for a serious mental illness.

The Appellant’s son-in-law testified that at the time of the screenings, he did not have Appellant’s medical history and documentation and, as such, could not indicate whether Appellant had suffered from a serious mental illness prior to the onset of Alzheimer’s disease. Prior to the hearing, the Appellant’s son-in-law was able to obtain Appellant’s prior medical records and those records were accepted as Exhibit 1. The records show that Appellant had suffered from depression and anxiety at least as far back as 2002, however, the diagnoses given to Appellant between 2002 and 2011 were indicative of someone with mild to moderate levels of anxiety and depression. (Exhibit 1).

The CMH representative then testified that the diagnoses contained in Appellant’s medical records did not meet the criteria for a serious mental illness as defined in the mental health code because the diagnoses were indicative of someone with mild to moderate levels of anxiety and depression. As indicated above, for a serious mental illness, someone must have a functional impairment “that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities.”

In this case, the CMH applied the proper eligibility criteria to determine whether Appellant was eligible for Specialty Mental Health Services and properly determined that she is not. Appellant’s test results showed she was not a person with a serious mental illness. The results of the screening conducted by CMH demonstrated that the Appellant had at most mild to moderate symptoms interfering with her ability to function

[REDACTED]
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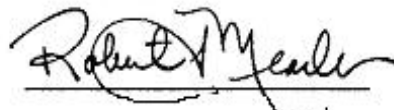
within the community. Accordingly, Appellant does not meet the eligibility criteria for Medicaid Specialty Supports and Services through CMH.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH properly denied Appellant's request for Medicaid Specialty Supports and Services through CMH.

IT IS THEREFORE ORDERED THAT:

The County Health Plan's decision is **AFFIRMED**.



Robert J. Meade
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 10/05/2012

***** 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.



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