

**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. 2012-68046 CMH
Case No. ██████████**

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 ██████████ ██████████, Senior Case Manager represented Appellant and testified on Appellant's behalf. ██████████ Appellant's grandmother, also appeared and testified on Appellant's behalf. Appellant, ██████████ (Appellant) appeared, but offered no testimony.

██████████ Manager, Due Process, appeared on behalf of Genesee County Community Mental Health (CMH or Department). ██████████ Utilization Case Coordinator, appeared as a witness for the Department.

ISSUE

Did the CMH properly determine that Appellant was not eligible for Clubhouse Psychosocial Rehabilitation?

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 Medicaid beneficiary who has been receiving services through Genesee County Community Mental Health (CMH) since ██████████ (Exhibit A, Testimony)
2. CMH is under contract with the Michigan Department of Community Health (MDCH) to provide Medicaid covered services to people who reside in the CMH service area.

3. The Appellant is a ██████████ old Medicaid beneficiary whose date of birth is ██████████ (Exhibit A, p 13). The Appellant is diagnosed with attention-deficit/hyperactivity disorder NOS and post-traumatic stress disorder. (Exhibit A, p 24; Testimony). The Appellant is prescribed Celexa and Ritalin. (Exhibit A, p 23).
4. The Appellant lives with his grandmother. (Exhibit A, p 14).
5. On ██████████ Appellant requested authorization for Clubhouse Psychosocial Rehabilitation (PSR). (Exhibit A, pp 1-5).
6. In response to Appellant's request, a CMH Utilization Care Coordinator conducted an eligibility review, which determined that Appellant was not eligible for PSR. (Exhibit A, pp 1-3)
7. On ██████████ CMH sent an Adequate Action Notice to Appellant notifying him that the request for authorization of PSR was denied. The notice included rights to a Medicaid fair hearing. (Exhibit A, pp 10-11).
8. The Michigan Administrative Hearing System received Appellant's request for hearing on ██████████ (Exhibit 1). In his Request for Hearing, Appellant wrote:

I wish to attend PSR to work towards my GED. I do not have the school documents needed to attend a regular school, cause [sic] I was in foster care. A program would keep me off the street [sic] and out of trouble. (Exhibit A)

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) and 1915(c) 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 *Medicaid Provider Manual, Mental Health/Substance Abuse* section articulates Medicaid policy for Michigan. Its states with regard to Clubhouse Psychosocial Rehabilitation Programs:

SECTION 5 – CLUBHOUSE PSYCHOSOCIAL REHABILITATION PROGRAMS

A clubhouse program is a community-based psychosocial rehabilitation program in which the beneficiary (also called clubhouse "members"), with staff assistance, is engaged in operating all aspects of the clubhouse, including food service, clerical, reception, janitorial and other member supports and services such as employment, housing and education. In addition, members, with staff assistance, participate in the day-to-day decision-making and governance of the program and plan community projects and social activities to engage members in the community. Through the activities of the ordered day, clubhouse decision-making opportunities and social activities, individual members achieve or regain the confidence and skills necessary to lead vocationally productive and socially satisfying lives.

5.1 PROGRAM APPROVAL

PIHPs must seek approval from providers of psychosocial rehabilitation clubhouse services from MDCH. (Refer to the Directory Appendix for contact information.) MDCH approval will be based on adherence to the requirements outlined below.

5.2 TARGET POPULATION

Clubhouse programs are appropriate for adults with a serious mental illness who wish to participate in a structured program with staff and peers and have identified psychosocial rehabilitative goals that can be achieved in a supportive and structured environment. The beneficiary must be able to participate in, and benefit from, the activities necessary to support the program and its members, and must not have behavioral/safety or health issues that cannot adequately be addressed in a program with a low staff-to-member ratio. Emphasis added.

MPM, Mental Health and Substance Abuse Section, July 1, 2012, Page 34.

The CMH is mandated by federal regulation to perform an assessment for the Appellant to determine what Medicaid services are medically necessary and determine the amount or level of the Medicaid medically necessary services that are needed to reasonably achieve her goals.

The CMH representative testified that she has worked as a Utilization Care Coordinator for ██████ years and that in her position she reviews authorization requests. In Appellant's case, the CMH representative indicated that she completed an Eligibility Review and

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determined that Appellant was not eligible for the Clubhouse Psychosocial Rehabilitation program because he did not have a serious mental illness or developmental disability as defined in the mental health code. (Exhibit A, pp 1-3). According to the CMH representative, Appellant's only diagnoses are attention deficit hyperactivity disorder (ADHD) and post-traumatic stress disorder (PTSD), neither of which is a qualifying diagnosis for a serious mental illness. The CMH representative also testified that she saw no evidence of a developmental disability with Appellant.

Appellant's grandmother testified that Appellant was taken from his mother's home following a traumatic event in [REDACTED]. Appellant's grandmother indicated that Appellant thereafter received some therapy when he was having trouble in school, but nothing else until beginning with CMH in [REDACTED]. Appellant's grandmother indicated that Appellant keeps things to himself and needs help.

Appellant's representative testified that Appellant was only screened and deemed eligible for targeted case management services at CMH in [REDACTED] and that it is too early to tell exactly what his diagnosis may be. Appellant's representative indicated that she believes Appellant needs a complete psychological evaluation. Appellant's representative agreed, however, that given the information the department had at the time, it was correct in denying him authorization for PSR.

The Appellant bears the burden of proving by a preponderance of the evidence that he is eligible for PSR. Here, the Appellant did not prove by a preponderance of the evidence that he was eligible for PSR because he could not demonstrate that he has a serious mental illness or developmental disability.

It should be noted that CMH is also seeking to terminate Appellant from all services because he does not meet the eligibility criteria for services because he does not have a serious mental illness or developmental disability. CMH was informed during the hearing that Appellant had not yet appealed that separate denial so the issue was not properly before the undersigned on the date of this hearing. Appellant and his representative were informed that they would have to file a separate appeal for that denial and that an administrative hearing would then be scheduled.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for Clubhouse Psychosocial Rehabilitation.

IT IS THEREFORE ORDERED that:

The CMH decision is **AFFIRMED**.



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

cc:

[REDACTED]

Date Mailed: 10/08/2012

***** 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.