

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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. 2012-68052 MHF

Case No. [REDACTED]

[REDACTED]
Appellant

DECISION AND ORDER

This case is before the State Office of Administrative Hearings and Rules pursuant to the provisions of MCL 330.1834 and Chapter 4 of the Administrative Procedures Act of 1969, as amended, MCL 24.271 *et seq.*

After due notice, a hearing was held on [REDACTED]. The Appellant was represented by [REDACTED] attorney and Special Fiduciary under MCR 5.204. She had no witnesses. [REDACTED] represented the Department. He had no witnesses.

PRELIMINARY MATTER

The admission Appellant's Exhibit #2, the late arriving hearing summary, prepared by fiduciary [REDACTED], was taken under advisement pending review and/or objection by the Department's representative. As of this writing there has been no objection.

Appellant's Exhibit #2 is admitted as evidence in support of the Appellant.

ISSUE

Did the Department properly determine Appellant's ability to pay for inpatient 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. The Appellant was admitted to the [REDACTED] in [REDACTED]. (See Testimony).
2. An annual ability to pay determination was completed by the Department [REDACTED] reimbursement staff on [REDACTED].

3. The determination found Appellant's annual ability to pay as [REDACTED] and a monthly amount of [REDACTED] (Exhibit A - throughout).
4. The Department's reimbursement officer considered Appellant's liabilities as well as "protected" income [REDACTED] and assets when determining his annual ability to pay. (Exhibit A, page 3).
5. On [REDACTED], the Department sent Appellant's fiduciary written notification of Appellant's annual ability to pay of [REDACTED] and [REDACTED] monthly. (Exhibit A, page 3).
6. At hearing the parties stipulated that a \$ [REDACTED] preparation expense and yet to be determined legal fees¹ would be accounted for in the Appellant's next annual redetermination – effective [REDACTED]. See Testimony
7. On [REDACTED], the Department received a copy of Appellant's request for an administrative hearing before the Michigan Administrative Hearing System filed by fiduciary [REDACTED] attorney. (Exhibit 1).

CONCLUSIONS OF LAW

Section 802 of the Michigan Mental Health Code, being MCL 330.1802; establishes financial liability for mental health services provided by the Michigan Department of Community Health. Section 804 states:

(1) A responsible party is financially liable for the cost of services provided to the individual directly or by contract with the department or a community mental health services program.

The Department established that the Appellant is a "responsible party"² and that he received inpatient psychiatric services provided by the Department for which he is financially liable.

The Department is mandated by state law to determine the Appellant's ability to pay:

(1) The department or a community mental health services program shall determine an adult responsible party's ability to pay for residential services and inpatient services other than psychiatric inpatient services of less than 61 days by taking into consideration the adult responsible party's total financial circumstances, including, but not limited to, income,

¹ According to [REDACTED] believed to be between \$ [REDACTED] and [REDACTED]

² Fiduciary, attorney [REDACTED]

expenses, number and condition of dependents, assets, and liabilities.

MCL 330.1819

Section 822 of the Michigan Mental Health Code, being MCL 330.1822 requires all responsible parties to make:

... available to the Department or Community Mental Health Services Program any relevant financial information that the department or community mental health services program is not prohibited by law from seeking and obtaining, and that the Department or Community Mental Health Services Program deems essential for the purpose of determining ability to pay. Willful failure to provide the relevant financial information may result in a determination of ability to pay up to the full cost of services received by the individual.

Expenses mean the reasonable un-reimbursed expenditures of money, actual and estimated, during a financial year to maintain a standard of living essential for one's self and his or her dependents. All of the following are considered necessities:

- (i) Food, clothing, and personal necessities.
- (ii) Shelter, including utilities and repairs for the upkeep of a homestead.
- (iii) Employment or business expenses.
- (iv) Medical services.
- (v) Taxes.
- (vi) Elementary, secondary, and postsecondary education.
- (vii) Repayment of personal financial obligations contractually established before an application was made for services, including such outstanding debt as lease payments, credit card obligations, and other educational or training expenses.
- (viii) Payments made under a divorce decree or court order.
- (ix) Transportation to maintain employment and necessary family activities.

R 330.8005(c)

The Department witness testified that he performed an ability to pay determination for the Appellant. In calculating the financial determination the Department determined Appellant's annual ability to pay a lump sum of [REDACTED] with a monthly amount of

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[REDACTED] This was based on the total of the Appellant's value of assets [REDACTED] less total liabilities [REDACTED] less protected assets [REDACTED]. See Department's Exhibit A, page 3

The Department's reimbursement staff considered Appellant's liabilities as well as his income and assets when determining his annual financial determination. (Exhibit A, throughout)

The Appellant's fiduciary testified that owing to inaction by the previous guardian – additional expenses in the administration of the Appellant's estate [pre and post divorce] are still forthcoming. [Most notably outstanding tax preparation expenses for delinquent filings and legal fees]

The Department's witness agreed to credit the Appellant's next accounting with data reviewed by the parties at today's hearing.

The Appellant did not withdraw his request for hearing.

The Appellant is court-ordered to live in a residential setting. He has resided in the [REDACTED] since [REDACTED]. At the time of hearing there are no plans to discharge the Appellant.

There is no finding of undue financial burden.

The Department provided sufficient evidence to establish that it properly determined the Appellant's ability to pay for inpatient services. The Appellant did not provide a preponderance of evidence that the Department failed to properly determine the Appellant's ability to pay.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined Appellant's ability to pay for inpatient services.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

_____/s/_____
Dale Malewska
Administrative Law Judge

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cc: [REDACTED]

Date Mailed: _____

***** NOTICE *****

The Appellant may appeal the above Decision and Order to the probate court for the county in which he/she lives. The Appellant's appeal to the probate court must be within 60 days from the date of the Decision and Order.