

**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) 373-4147

IN THE MATTER OF:

████████████████████

Docket No. 2013-13506 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 ██████████. Appellant, ██████████ appeared and testified on his own behalf.

██████████, Systems Management Specialist, Fair Hearings Officer, represented Network 180, the mental health authority for Kent County Michigan (CMH or Network180). ██████████, Access Center Clinician and ██████████, Developmental Disability (DD) Access Center Supervisor, appeared as witnesses for the Department.

ISSUE

Did CMH properly determine that the Appellant was not eligible for CMH 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 is a ██████ year-old male, born ██████████. (Exhibit C, p 1).
2. CMH is under contract with the Department of Community Health (MDCH) to provide Medicaid covered services to people who reside in the CMH service area.
3. The Appellant is diagnosed with pedophilia, personality disorder NOS, morbid obesity, hypertension, sleep apnea, back pain, housing problems, and an eating disorder. (Exhibit D, p 5).
4. The Appellant is being prescribed the medications Lisinopril and Amlodipine for HTN and Gabapentin and Ibuprofen for arthritis. (Exhibit D, p. 4).

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5. Appellant lives with his cousin and has an [REDACTED] who is supportive. (Exhibit D, p 4; Testimony).
6. Appellant dropped out of high school midway through the 10th grade. (Exhibit D, p 1).
7. Appellant is a [REDACTED] [REDACTED] [REDACTED] having been convicted of CSC (Accosting, Enticing, or Soliciting a Child for Immoral Purpose) on [REDACTED]. (Exhibit D, p 1).
8. Appellant reported that he has worked for a production factory and as a grill cook at [REDACTED] [REDACTED] King and [REDACTED] and [REDACTED] (Exhibit D, p 3).
9. Appellant is not currently enrolled in Network180 services, but Appellant has requested services through CMH as a person with a developmental disability. (Exhibit 1).
10. Following Appellant's request for services, [REDACTED], Access Center Clinician, performed an assessment. [REDACTED] met with Appellant and reviewed the limited records Network180 was able to obtain regarding Appellant. [REDACTED] did not find evidence of a manifestation of a developmental disability before Appellant reached the Age of 22. [REDACTED] also did not find that Appellant had a substantial limitation in any of the areas of major life activities outlined in the Mental Health Code. (Exhibit D; Testimony).
11. On [REDACTED], Network180 sent Appellant an Adequate Notice of Action informing him that services were denied because an assessment had shown that Appellant was not a person with a developmental disability, as defined by the Mental Health Code. The Adequate Notice of Action informed Appellant of his right to a Medicaid Fair Hearing. (Exhibit C).
12. On [REDACTED], Appellant submitted a Request for Hearing to the Michigan Administrative Hearing System. In the Request for Hearing, Appellant indicated, in part:

"I am a disable (sic) person. I receive disability benefits through social security. I have a learning disability and physical disabilities." (Exhibit 1).

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.

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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 she 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 sections 1915(b) and 1915(c) Medicaid Managed Specialty Services waiver. Detroit-Wayne County CMH contracts with the Michigan Department of Community Health to provide specialty mental health services, including DD services. Services are provided by CMH pursuant to its contract obligations with the Department and in accordance with the federal waiver.

Medicaid beneficiaries are only entitled to medically necessary Medicaid covered services for which they are eligible.

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The CMH Representative indicated that the Michigan Mental Health Code definition of developmental disability was utilized by CMH to determine that Appellant was not eligible for CMH services. That definition provides, in pertinent part:

“Developmental disability” means either of the following:

- a. If applied to an individual older than 5 years of age, a severe, chronic condition that meets all of the following requirements:
 - i. Is attributable to a mental or physical impairment or a combination of mental and physical impairments.
 - ii. Is manifested before the individual is 22 years old.
 - iii. Is likely to continue indefinitely.
 - iii. Results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - A. Self-care.
 - B. Receptive and expressive language.
 - C. Learning.
 - D. Mobility.
 - E. Self-direction.
 - F. Capacity for independent living.
 - G. Economic self-sufficiency.
 - v. Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

MCL 330.1100a

The CMH witness testified that he has a Master’s degree in rehabilitative counseling and that he completed a screening of Appellant. The CMH witness indicated that he met with Appellant and reviewed the records he was able to obtain regarding Appellant. The CMH witness indicated that he could not find any evidence of a manifestation of a developmental disability before Appellant reached the age of 22 and that he found that Appellant had no substantial limitations in the seven areas of major life activity outlined in the Mental Health Code. (Exhibit D). The CMH witness also indicated that he used a Decision Tree Tool developed by Network 180 to assist with the determination of developmental disability and found that Appellant did not have a chronic or severe condition that was attributable to a mental (cognitive or neurological) or physical (physical functioning) impairment OR a combination of the two. (Exhibit F) The CMH witness did indicate that Appellant has had some mental health issues in the past and does have some physical limitations due to being morbidly obese, but that Appellant did not have a developmental disability as defined by the Mental Health Code.

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Appellant testified that he lives with his [REDACTED] who has to tell him when to take a shower and has to cook all his food. Appellant testified that he has been on SSI his whole life and that the jobs he has had he has had to quit because he doesn't get along with people and doesn't understand people well. Appellant also indicated, however, that he had to quit those jobs because they were messing with his SSI. Appellant testified that he was not just looking for help with housing; he was also looking for someone to watch out for him so that people don't take advantage of him or his money.

Based on the competent and material evidence on the whole record, the Appellant has failed to prove, by a preponderance of the evidence, that he met the Mental Health Code eligibility requirements for developmental disability. A qualified professional from Network180 completed a comprehensive assessment of Appellant and determined that he did not meet the Mental Health Code definition of a person with a developmental disability. Appellant presented no evidence to contradict this finding.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that:

The Appellant does not meet the Mental Health Code eligibility requirements for services provided by CMH for persons with a developmental disability.

IT IS THEREFORE ORDERED that:

The CMH's eligibility denial decision is **AFFIRMED**.

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

cc: [REDACTED]

Date Mailed: January 18, 2013

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***** 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.