

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. 2013-45076 SAS
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 on his own behalf. Attorney ██████████, Corporate Counsel, represented Respondent, ██████████ County Community Mental Health and Substance Abuse Services (or Department). ██████████, Psychiatrist, Medical Director at ██████████, appeared as a witness for ██████████.

ISSUE

Did the Respondent properly terminate Appellant's outpatient methadone treatment?

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 ██████ year-old Medicaid beneficiary, born ██████████. (Exhibit 1)
2. Appellant has been receiving the Medicaid Covered service of therapy and pharmacological supports (methadone) at ██████████ which is a licensed Methadone provider. (Exhibit A, pp 1, 12-13; Testimony)
3. ██████████ is an authorizing agency for substance abuse services provided under programs administered by the Department of Community Health/Community Mental Health. (Exhibit A, Testimony)

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4. [REDACTED] contracts with [REDACTED] to provide outpatient methadone treatment (OMT) to enrollees. (Exhibit A, Testimony)
5. Appellant has been receiving OMT through [REDACTED] since [REDACTED]. (Exhibit A, p 12; Testimony)
6. Appellant's participation in OMT requires prohibition from the use of alcohol or drugs not included in his treatment plan. (Testimony)
7. Beginning in [REDACTED], [REDACTED] began working with [REDACTED] to terminate Appellant's methadone treatment because of frequent positive drug screens. (Exhibit A, pp 1; 12-13)
8. On [REDACTED], [REDACTED] sent Appellant an Advance Action Notice stating that Appellant's methadone dose would be reduced by 2 mg per week due to the positive drug screens. (Exhibit A, pp 3-4)
9. On [REDACTED], [REDACTED] sent Appellant another Advance Action Notice stating that Appellant's methadone dose would be reduced by 2 mg per day until the dose reached 0 mg. (Exhibit A, pp 7-8)
10. Appellant filed a local appeal following the [REDACTED] Notice. To address this appeal, [REDACTED] medical director reviewed Appellant's medical records and determined that continued administrative discharge was proper. (Exhibit A, pp 11-14)
11. Appellant's Request for Hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (Exhibit 1)

CONCLUSIONS OF LAW

The Medicaid program was established pursuant to Title XIX of the Social Security Act (SSA) and is implemented by 42 USC 1396 *et seq.*, and Title 42 of the Code of Federal Regulations (42 CFR 430 *et seq.*). The program is administered in accordance with state statute, the Social Welfare Act (MCL 400.1 *et seq.*), various portions of Michigan's Administrative Code (1979 AC, R 400.1101 *et seq.*), and the state Medicaid plan promulgated pursuant to Title XIX of the SSA.

Subsection 1915(b) of the SSA provides, in relevant part:

The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 (other than subsection(s) 1902(a)(15), 1902(bb), and 1902(a)(10)(A) insofar as it requires provision of the care

and services described in section 1905(a)(2)(C)) as may be necessary for a State –

- (1) to implement a primary care case-management system or a specialty physician services arrangement, which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain medical care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary.

Under approval from the Center for Medicare and Medicaid Services (CMS), the Department (MDCH) presently operates a Section 1915(b) Medicaid waiver referred to as the managed specialty supports and services waiver. A prepaid inpatient health plan (PIHP) contracts (Contract) with MDCH to provide services under this waiver, as well as other covered services offered under the state Medicaid plan.

Pursuant to the Section 1915(b) waiver, Medicaid state plan services, including substance abuse rehabilitative services, may be provided by the PIHP to beneficiaries who meet applicable coverage or eligibility criteria. *Contract FY 2009, Part II, Section 2.1.1, p 27.* Specific service and support definitions included under and associated with state plan responsibilities are set forth in the Mental Health/Substance Abuse Chapter of the Medicaid Provider Manual (MPM). *Contract FY 2009, Part II, Section 2.1.1, p 27.*

Medicaid-covered substance abuse services and supports, including Office of Pharmacological and Alternative Therapies (OPAT)/Center for Substance Abuse Treatment (CSAT) – approved pharmacological supports may be provided to eligible beneficiaries. *MPM, Mental Health/Substance Abuse Chapter, §§ 12.1, July 1, 2013, pp 64.*

OPAT/CSAT-approved pharmacological supports encompass covered services for methadone and supports and associated laboratory services. *MPM, Mental Health/Substance Abuse Chapter, §§ 12, July 1, 2013, OPAT/CSAT subsection.* Opiate-dependent patients may be provided therapy using methadone or as an adjunct to other therapy.

The Medicaid Provider Manual provides:

12.2.F. DISCONTINUATION/TERMINATION CRITERIA

Discontinuation/termination from methadone treatment refers to the following situations:

- Beneficiaries must discontinue treatment with methadone when treatment is completed with respect

to both the medical necessity for the medication and for counseling services.

- Beneficiaries may be terminated from services if there is clinical and/or behavioral noncompliance.

12.2.F.2. ADMINISTRATIVE DISCONTINUATION

Administrative discontinuation relates to non-compliance with treatment and recovery recommendations, and/or engaging in activities or behaviors that impact the safety of the OTP environment or other individuals who are receiving treatment. The OTP must work with the beneficiary and the parent, legal guardian, or responsible adult (designated by the relevant state authority/CPS) to explore and implement methods to facilitate compliance.

Non-compliance is defined as actions exhibited by the beneficiary which include, but are not limited to:

- The repeated or continued use of illicit opioids and non-opioid drugs (including alcohol).
- Toxicology results that do not indicate the presence of methadone metabolites. (The same actions are taken as if illicit drugs, including non-prescribed medication, were detected.)

*Medicaid Provider Manual
Mental Health/Substance Abuse Section
July 1, 2013, pp 70-71*

The methadone maintenance and detoxification program, as outlined in the Department's requirements, prohibits the use of illicit drugs not otherwise prescribed by a physician. Substantial compelling evidence submitted by the Department's agent established that the Appellant repeatedly tested positive for illicit drugs and failed to provide requested physician documentation for the illicit drugs that showed in his urine tests.

██████████ medical director testified that he reviewed Appellant's chart to determine if the decision to administratively discharge Appellant from the methadone program was proper. ██████████ medical director determined based on this review that the clinic's decision to administratively discharge Appellant from the methadone program was proper based on Appellant's repeated positive drug screens.

Appellant testified that the whole problem began with he tested positive for marijuana (THC). Appellant indicated that he was told by ██████████ that if he had 4 drug screens negative for THC, he could remain at his current methadone dose. Appellant

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indicated that he did pass 4 drug screens, but the 5th was positive for opiates, for which he did not have a prescription.

provided sufficient evidence that its decision to terminate Appellant from OMT, including therapy, was proper and in accordance with Department policy. The Appellant did not prove, by a preponderance of evidence that he complied with his outpatient methadone treatment program. This means that the properly terminated Appellant's outpatient methadone treatment.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that properly terminated Appellant's outpatient methadone treatment program.

IT IS THEREFORE ORDERED THAT:

Respondent's decision is AFFIRMED.



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

cc:

Date Signed: 7/25/2013

Date Mailed: 7/25/2013

***** 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 & 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.