

**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. 2013-52667 MHT**

██████████

██████████

Appellant

\_\_\_\_\_ /

**HEARING DECISION AND ORDER**

This case is before the State Office of Administrative Hearings and Rules pursuant to the provisions of MCL 330.1407, and Chapter 4 of the Administrative Procedures Act of 1969, as amended, MCL 24.271 *et seq.*

After due notice, a telephone hearing was held on ██████████ ██████████ the Appellant appeared, on his own behalf. ██████████ Social Work Supervisor Admissions and Transfer Coordinator at ██████████ ("Transfer Coordinator"), represented the Department. ██████████, Client Resident Affairs Representative at the ██████████ ██████████, was also present.

**ISSUE**

Did the Department properly transfer the Appellant from ██████████ to the ██████████ ██████████?

**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 resident of the ██████████
2. On ██████████ the Appellant was adjudicated Not Guilty by Reason of Insanity ("NGRI") secondary to charges of Domestic Violence 3<sup>rd</sup> Offence and Habitual Offender 4<sup>th</sup> Offence. (Cover pages with Exhibits A-M)
3. On ██████████ the Appellant was admitted to the ██████████ ██████████ on a NGRI diagnostic order. (Cover pages with Exhibits A-M)
4. On ██████████ Appellant was transferred to ██████████ for placement in a less restrictive setting. (Cover pages with Exhibits A-M)

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5. On [REDACTED], the Appellant was released from [REDACTED] into a less restrictive setting in the community on Authorized Leave Status. (Cover pages with Exhibits A-M)
6. As of [REDACTED] the Appellant was on ALS status from [REDACTED] and had a one year order that expires [REDACTED] (Exhibit D)
7. On [REDACTED], the Transfer Coordinator received a call from the case manager with [REDACTED] (“CMH”) reporting that the Appellant had recently undergone a medication change and had decompensated psychiatrically. The Appellant had agreed to come in for an emergency medications review and the plan was to give him an injection and to temporarily place him in a group home. When the Appellant was there he refused and left the clinic. The Appellant was reportedly delusional and refusing intervention. The CMH case manager believed the Appellant needed to be hospitalized. (Cover pages with Exhibits A-M; Exhibit A)
8. On [REDACTED], [REDACTED] did not have a male bed available. It was determined that the Appellant needed to return to the [REDACTED]. Coordination of the transfer began and the CMH agreed with the transfer. (Exhibits B-E)
9. On [REDACTED], the Michigan Department of Community Health approved the transfer of the Appellant from [REDACTED] to the [REDACTED]. The reason for the transfer indicated: the Appellant had decompensated psychiatrically following a medication adjustment; when attempts were made to stabilize him on medication and put him in temporary group home placement until resolution of the symptoms he eloped; he is now on Unauthorized Leave of Absence Status; he is to be clerically transferred from [REDACTED] to [REDACTED] he is to be transported and admitted to [REDACTED]. (Exhibit G)
10. On [REDACTED], the CMH Case Manager clarified that the Appellant had not been located by the police and his whereabouts were unknown. (Exhibit H)
11. On [REDACTED], the Transfer Coordinator issued an email notification that the Appellant was now on Unauthorized Leave of Absence Status effective [REDACTED]. (Exhibit I)
12. On [REDACTED] the Appellant was administratively transferred from [REDACTED] to [REDACTED] effective [REDACTED] (Exhibit J)
13. On [REDACTED], the Appellant showed up at [REDACTED] and was to be taken by ambulance to [REDACTED] (Exhibit K)

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14. On [REDACTED], the Appellant admitted to [REDACTED] and received the Notice of Transfer and Right to Appeal Transfer. (Exhibit L)
15. On [REDACTED], the Appellant appealed the transfer. (Exhibit L)
16. On [REDACTED] the Appellant's appeal was received by the Michigan Administrative Hearing System. (Exhibit L)

**CONCLUSIONS OF LAW**

A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient, a patient advocate designated to make mental health treatment decisions for the patient under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if any, and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient, the patient advocate, or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer.

MCL 330.1407

- (1) An individual is subject to being returned to a hospital if both of the following circumstances exist:
  - (a) The individual was admitted to the hospital by a judicial order.
  - (b) The individual has left the hospital without authorization, or has refused a lawful request to return to the hospital while on an authorized leave or other authorized absence from the hospital.
- (2) The hospital director may notify peace officers that an individual is subject to being returned to the hospital. Upon notification by the hospital director, a peace officer shall take the individual into protective custody and

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return the individual to the hospital unless contrary directions have been given by the hospital director.

*MCL 330.1408*

1) A resident in a center may be transferred to any other center, or to a hospital operated by the department, if the transfer would not be detrimental to the resident and the responsible community mental health services program approves the transfer.

(2) The resident and his or her nearest relative or guardian shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if necessitated by an emergency. In addition, the resident may designate 2 other persons to receive the notice. If the resident, his or her nearest relative, or guardian objects to the transfer, the department shall provide an opportunity to appeal the transfer.

3) If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer.

*MCL 330.1536*

**Rule 330.4011 Transfer between state hospitals.**

(1) A patient may be transferred between hospitals, including the University of Michigan neuropsychiatric institute or other facilities of the department which are not hospitals, for administrative reasons or for good and sufficient clinical reasons when approved by the department. Approval by the department shall be expressed by an order of transfer, a copy of which shall be forwarded to the director of each hospital involved. Prior to approval or denial of the transfer, the department shall consult with the contractually responsible county community mental health program. A request for a transfer may be submitted by a hospital director, a patient, or other interested person.

(2) Before an approved transfer is acted upon, the director of the hospital in which the patient is currently residing shall notify in writing, not less than 7 days prior to transfer, the patient and his guardian or his nearest relative and up to 2 other persons designated by the patient, except if the transfer is necessitated by an emergency as determined by the hospital director and documented in hospital records. Under emergency circumstances, the hospital director shall effect a transfer as

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soon as necessary and issue the appropriate notices not more than 24 hours after transfer.

(3) The notification period of not more than 7 days prior to transfer may be reduced if the patient or his guardian or nearest relative approves the transfer in person, by telephone, or in writing, and this approval is documented. Written approval shall be obtained as soon as administratively possible.

(4) Notice of transfer by a hospital director shall inform the patient and his guardian or nearest relative of the right to object to the transfer. Upon receipt of a written objection, an appeal hearing shall be held promptly, under procedures established by the department. If an objection is made; transfer shall be delayed until a ruling of the appeal hearing indorses it, unless an emergency as determined and documented by the hospital director necessitates an immediate transfer. An emergency transfer is revocable by decision of the director of the department or by order of the appeal referee.

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The following facts are not in dispute. The Appellant was adjudicated Not Guilty By Reason of Insanity (NGRI). On [REDACTED] the Appellant was admitted to the [REDACTED] on a NGRI diagnostic order. On [REDACTED], the Appellant was transferred to [REDACTED] for placement in a less restrictive setting. On [REDACTED] the Appellant was released from [REDACTED] into a less restrictive setting in the community on Authorized Leave Status. As of [REDACTED] the Appellant was on ALS status from [REDACTED] and had a [REDACTED] year order that expires [REDACTED]

On [REDACTED], the Transfer Coordinator received a call from the case manager with CMH reporting that the Appellant had recently undergone a medication change and had decompensated psychiatrically. The Appellant had agreed to come in for an emergency medications review and the plan was to give him an injection and to temporarily place him in a group home. When the Appellant was there he refused and left the clinic. The Appellant was reportedly delusional and refusing intervention. The CMH case manager believed the Appellant needed to be hospitalized. (Cover pages with Exhibits A-M; Exhibit A) On [REDACTED] [REDACTED] did not have a male bed available. It was determined that the Appellant needed to return to the [REDACTED] Coordination of the transfer began and the CMH agreed with the transfer. (Exhibits B-E)

On [REDACTED], the CMH Case Manager clarified that the Appellant had not been located by the police and his whereabouts were unknown. (Exhibit H)

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On [REDACTED] the Michigan Department of Community Health approved the transfer of the Appellant from [REDACTED] to the [REDACTED]. The reason for the transfer indicated: the Appellant had decompensated psychiatrically following a medication adjustment; when attempts were made to stabilize him on medication and put him in temporary group home placement until resolution of the symptoms he eloped; he is now on Unauthorized Leave of Absence Status; he is to be clerically transferred from [REDACTED] to [REDACTED]; he is to be transported and admitted to [REDACTED]. (Exhibit G)

On [REDACTED], the Transfer Coordinator issued an email notification that the Appellant was now on Unauthorized Leave of Absence Status effective [REDACTED] (Exhibit I)

On [REDACTED] the Appellant was administratively transferred from [REDACTED] to [REDACTED] effective [REDACTED] (Exhibit J)

On [REDACTED] the Appellant showed up at [REDACTED] and was to be taken by ambulance to [REDACTED]. (Exhibit K) On [REDACTED] the Appellant admitted to [REDACTED] and received the Notice of Transfer and Right to Appeal Transfer. On [REDACTED] the Appellant appealed the transfer. (Exhibit L)

The Appellant testified he wants to go back to the [REDACTED]. The Appellant understood that at the time, they thought the Appellant was getting sick. The Appellant was trying to relocate. There was trouble in his city and the Appellant thought it was not safe for a while. The Appellant felt his rights were violated some and appealed the decision that was made. (Appellant Testimony)

The Transfer Coordinator's testimony indicated that had a bed been available at the [REDACTED], the Appellant would have gone there. However, since no bed was available at the [REDACTED], the Appellant was instead transferred to the [REDACTED] (Transfer Coordinator Testimony)

The Michigan Mental Health Code permits the transfer of a patient from one inpatient facility to another if it would not be detrimental. I find that the Appellant's transfer to the [REDACTED] would not be detrimental to the Appellant's overall treatment. The Department has provided good and sufficient clinical reasons for the Appellant's transfer and sufficient evidence that the transfer would not be detrimental to the Appellant. The Appellant has not provided sufficient evidence to show that the proposed transfer would be detrimental to his overall treatment.

The Michigan Mental Health Code indicates notices of the transfer should be given at least [REDACTED] days prior to any transfer, with an exception if the transfer is necessitated by an emergency.

In an emergency, the provisions for [REDACTED] day notice prior to the transfer do not apply. Rather, the required notices shall be given as soon as possible, but not later than [REDACTED] hours after the transfer. In this case, the evidence establishes the transfer was an emergency based

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on the report that the Appellant decompensated psychiatrically following the medication change and eloped when attempts were made to stabilize him on medication and put him in temporary group home placement until resolution of the symptoms. The evidence indicates the Appellant was admitted to the [REDACTED] on [REDACTED] but not served with notice of the transfer until [REDACTED] more than [REDACTED] hours after the transfer. (Exhibit I; Transfer Coordinator Testimony) However, the evidence is also clear that the [REDACTED] did not have a male bed, which is why the Appellant could not be returned there. (Exhibit B; Transfer Coordinator Testimony) Accordingly, while the notice should have been provided to the Appellant within [REDACTED] hours of his admittance to the [REDACTED], the transfer was appropriate.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department of Community Health properly transferred the Appellant from the [REDACTED] to the [REDACTED]

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is AFFIRMED.

/s/

Colleen Lack  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

CL/db

cc: [REDACTED]

This Decision and Order can be appealed in the Circuit Court in the County in which the Appellant resides. The Circuit Court can be contacted for any questions regarding the appeal procedure.