

**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. 14-006141 CMH
Case No. [REDACTED]

[REDACTED]

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon Appellant's request for a hearing.

After due notice, a hearing was held on [REDACTED]. [REDACTED], Appellant's guardian and sister, appeared on Appellant's behalf. Appellant was present but did not testify.

[REDACTED], Manager, Due Process, appeared on behalf of [REDACTED] (CMH, GHS or Department). [REDACTED], Utilization Management Coordinator, appeared as a witness.

ISSUE

Was the CMH's denial of Appellant's request for Skill-Building services proper?

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 [REDACTED] year-old Medicaid beneficiary, born [REDACTED], who has been receiving services through [REDACTED] (CMH). (Exhibit A, p 4; Testimony)
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. (Testimony)
3. Appellant is diagnosed with schizophrenia, undifferentiated type, has a risk of falling, uses a walker, and has had a bilateral mastectomy in the past due to breast cancer. (Exhibit A, 76; Testimony).

4. Appellant currently resides in an Adult Foster Care (AFC) home. (Exhibit A, pp 4-5; Testimony)
5. Appellant currently receives the Medicaid Covered Specialty Mental Health Services and Supports of Targeted Case Management, Medication Reviews, Community Living Supports and OT Services. (Exhibit A, pp 14-15; Testimony)
6. On ██████████, a formal request was made to CMH's Utilization Management Department for the authorization of Skill Building services. (Exhibit A, 16-19; Testimony).
7. Following a review of Appellant's records, CMH's Utilization Management Department determined that Appellant did not meet the medical necessity criteria for Skill Building services and an Adequate Action Notice denying those services was sent to Appellant's guardian on ██████████. (Exhibit A, pp 1-3; Testimony).
8. Appellant's request for hearing was received by the Michigan Administrative Hearing System on ██████████. (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.

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) 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, April 1, 2014, Pages 126 and 127*, states:

17.3.K. SKILL-BUILDING ASSISTANCE

Skill-building assistance consists of activities identified in the individual plan of services and designed by a professional within his/her scope of practice that assist a beneficiary to increase his economic self-sufficiency and/or to engage in meaningful activities such as school, work, and/or volunteering. The services provide knowledge and specialized skill

development and/or support. Skill-building assistance may be provided in the beneficiary's residence or in community settings.

Documentation must be maintained by the PIHP that the beneficiary is not currently eligible for sheltered work services provided by Michigan Rehabilitation Services (MRS). Information must be updated when the beneficiary's MRS eligibility conditions change.

Coverage includes:

- Out-of-home adaptive skills training: Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; and supports services, including:
 - Aides helping the beneficiary with his mobility, transferring, and personal hygiene functions at the various sites where adaptive skills training is provided in the community.
 - When necessary, helping the person to engage in the adaptive skills training activities (e.g., interpreting).

Services must be furnished on a regularly scheduled basis (several hours a day, one or more days a week) as determined in the individual plan of services and should be coordinated with any physical, occupational, or speech therapies listed in the plan of supports and services. Services may serve to reinforce skills or lessons taught in school, therapy, or other settings.

- Work preparatory services are aimed at preparing a beneficiary for paid or unpaid employment, but are not job task-oriented. They include teaching such concepts as attendance, task completion, problem solving, and safety. Work preparatory services are provided to people not able to join the general workforce, or are unable to participate in a transitional sheltered workshop within one year (excluding supported employment programs).
- Activities included in these services are directed primarily at reaching habilitative goals (e.g., improving attention span and motor skills), not at teaching specific job skills. These services must be reflected in the beneficiary's person-centered plan and directed to habilitative or

rehabilitative objectives rather than employment objectives.

- Transportation from the beneficiary's place of residence to the skill building assistance training, between skills training sites if applicable, and back to the beneficiary's place of residence.

Coverage excludes:

- Services that would otherwise be available to the beneficiary.

CMH's Utilization Management Coordinator testified that her department considers requests for services and determines if those services are medically necessary. CMH's Utilization Management Coordinator testified that she sent out the Adequate Action Notice denying Appellant's request for Skill Building services after reviewing Appellant's Individual Plan of Service (IPOS), Psychosocial Assessment, and other records from Appellant's file. CMH's Utilization Management Coordinator indicated that Appellant did not meet medical necessity criteria for Skill Building because none of the goals or objectives in Appellant's IPOS relate to the goals of Skill Building, which include increasing economic self-sufficiency, or engaging in meaningful activities such as school, work, or volunteering. To the contrary, the goals in Appellant's IPOS dealt more with socialization type activities. CMH's Utilization Management Coordinator testified that Appellant has never been employed. CMH's Utilization Management Coordinator indicated that the Community Living Supports (CLS) that Appellant is authorized for, and receiving, are sufficient to meet these socialization goals from her IPOS.

Appellant's guardian and sister testified that until ██████, Appellant was in a mental hospital and since that time she has resided in various group homes. Appellant's guardian and sister testified that since Appellant has been residing in group homes, she has always gone to a day program. Appellant's guardian and sister testified that Appellant's current home is a good one with good social workers and Appellant's family visits when they can. Appellant's guardian and sister indicated that the last day program Appellant attended had a lot of problems and was eventually cancelled. Since that time, Appellant's guardian and sister indicated that Appellant has not been attending a day program. Appellant's guardian and sister testified that in searching for a day program, she and Appellant's case manager discovered the ██████ program in ██████ Michigan. Appellant's guardian and sister testified that everyone on Appellant's care team thought ██████ was appropriate for Appellant and Appellant was accepted into the program. Appellant's guardian and sister testified that she then learned that CMH had denied Appellant the Cornerstone program because it was a Skill Building program. Appellant's guardian and sister testified that she has been searching for other programs for Appellant but as of yet has been unable to find anything. Appellant's guardian and sister testified that Appellant cannot use the bus on her own and that she really enjoys going to a day program. Appellant's guardian and sister

testified that Appellant now gets very anxious and sometimes aggressive when everyone else in the group home leaves in the morning for their various programs or school.

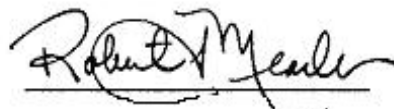
Appellant bears the burden of proving that she met the medical necessity criteria to have Medicaid-covered Skill-Building services. The CMH provided sufficient evidence that medical necessity does not exist for Medicaid covered skill-building service. As indicated above, skill building is designed to assist a beneficiary to increase his or her economic self-sufficiency and/or to engage in meaningful activities such as school, work, and/or volunteering. Appellant has never held a job, nor has she attended school, and none of the goals in her IPOS support Skill Building services. The CMH witnesses indicated that they are continuing in their search for a day program for Appellant, but that the program sought had to be denied as not medically necessary because it focused on skill building for those persons seeking employment.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH's denial of Appellant's request for Medicaid covered Skill-Building service was in accordance to policy.

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]

RJM/ [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

***** 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.