

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 14-006981 MHT

██████████

Appellant

_____ /

HEARING DECISION AND ORDER

This case is before the Michigan Administrative Hearing System 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 without representation and testified on his own behalf. ██████████ Transfer Coordinator appeared and testified on behalf of the ██████████ ██████████ hereinafter the ██████████.

██████████, Admission Coordinator at ██████████, appeared as representative for ██████████. ██████████ and ██████████, LMSW, Appellant's psychiatrist and social worker, testified on behalf of ██████████.

ISSUE

Did the Department properly transfer the Appellant from the ██████████ ██████████ 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 was admitted to the ██████████ on ██████████. (Exhibit A, pp. 2, 5, 6 and testimony).
2. The Appellant had been adjudicated Not Guilty By Reason of Insanity (NGRI) on a Continuing (one year) Order entered in ██████████ County Probate Court on ██████████. (Exhibit A, p. 5 and testimony).

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3. On [REDACTED] [REDACTED] Mental Health Authority authorized the transfer of the Appellant from [REDACTED] to the [REDACTED] [REDACTED] or CFP). The CMHA letter of authorization and the Order of Transfer were forwarded to [REDACTED], Director, Bureau of State Hospitals and Behavioral Health Administrative Operations for review and signature. (Exhibit A, pp. 5-6).
4. On or about [REDACTED], Appellant's treatment team requested that he be returned to CFP due to [REDACTED] no longer being the least restrictive facility for his needs. The team indicated the behaviors displayed by the Appellant created an environment of hostility and fear on Unit R5 at [REDACTED] that interfered with the treatment of others housed in the unit. Appellant had also threatened to kill his treating psychiatrist. The NGRI committee approved his transfer to CFP. (Exhibit A, pp. 5-6).
5. On [REDACTED], and the Order of Transfer was signed by [REDACTED], Director, Bureau of State Hospitals and Behavioral Health Administrative Operations. (Exhibit A, p. 5).
6. On [REDACTED], the Appellant was transferred and received his Notice of Transfer and Right to Appeal Transfer at the [REDACTED] wherein he appealed his transfer. (Exhibit A, pp. 3-4).
7. During the hearing, Appellant said his circumstances have been blown all out of proportion. He denied that he was telling other patients what to do and taking money from them, or that he made any threats to his treating psychiatrist or other patients at [REDACTED]. (Exhibit 1 and testimony).
8. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on [REDACTED] (Exhibit A, p. 3).

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. [MCL 330.1407].

(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.

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(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 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. (Mich Admin Code R 330.4011, emphasis supplied).

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The Appellant now resides at the [REDACTED] following behaviors displayed by the Appellant that created an environment of hostility and fear on Unit R5 at [REDACTED] [REDACTED] that interfered with the treatment of others housed in the unit. Appellant had also threatened to kill his treating psychiatrist. [REDACTED] [REDACTED], and [REDACTED], LMSW, Appellant's psychiatrist and social worker at [REDACTED] established that the Appellant was admitted to [REDACTED] on [REDACTED] and was originally in R3 Unit but was eventually transferred to R5 Unit after continually threatening his treating psychiatrist in R3 Unit and demanding that his medications be discontinued. Appellant was then transferred to [REDACTED] unit, R5 Unit.

[REDACTED] stated he began working with the Appellant and adjusted his medication. Thereafter the Appellant's behaviors became more and more unacceptable. Appellant was giving inappropriate directions to other patients in R5 Unit, asking them not to take their medications; selling them cigarettes; preaching to other patients; telling them not to eat; he told other patients if they did not follow his rules there would be a blood shed; and made other patients kneel in front of him in a shower and threatened them. [REDACTED] stated Appellant's behavior got so bad that he almost caused a riot in the unit getting a number of patients to follow him through verbal and physical threats and demanding their money.

[REDACTED] stated Appellant's behavior was disrupting the treatment of the other patients in his unit. [REDACTED] stated at one point he had to go to another unit and another psychiatrist was treating the Appellant and the Appellant threatened the other psychiatrist and said he was going to stab him. Appellant was placed in isolation and continued to verbalize that he was going to attack the other psychiatrists. [REDACTED] stated they determined that they were unable to provide the care Appellant needed and sought the transfer to the [REDACTED].

[REDACTED] Appellant's social worker at [REDACTED] stated the Appellant's behavior started to decompensate starting around [REDACTED] and up until the time he was transferred to CFP. She stated the Appellant's treatment team met numerous times during that period of time and Appellant would indicate in the meetings that he would discontinue talking to other patients about their diets and their medications, but he would go right back and continue his disruptive behavior. [REDACTED] noted that there were numerous statements by the Appellant documented in his treatment file where he stated he was not going to follow his treatment plans. [REDACTED] stated they had to transfer the Appellant in order insure the health, safety and welfare of the other patients in his unit, because the Appellant was interfering with their treatments.

The Appellant testified that what the others had said was not true. He claimed that they have blown this matter all out of proportion. He claimed he was not telling the other patients what to do or taking their money. Appellant testified he doesn't make threats, and tries to get along with everyone. Appellant claimed the other patients looked up to him as a higher functioning patient. He claimed he would try to help other patients without interfering with their treatment. However, he did say that he would listen to the other

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patient's problems with their medications and how they were making them feel, he would ask what medications they were on, and he would look them up in the PDR and find out which medications would have that side effect or adverse effect and then tell them to go talk to their doctor about their medication.

On review, this transfer request was the result of behaviors displayed by the Appellant that created an environment of hostility and fear on Unit R5 at [REDACTED] that interfered with the treatment of others housed in the unit. Appellant had also threatened to kill his treating psychiatrist. Appellant was considered to be a high risk patient in need of a more secure and highly structured environment. Thus, the transfer to the [REDACTED] - a more secure setting – was a reasonable resolution. Appellant's own testimony supported the testimony of the members of his treating team at [REDACTED] when he said he would look up the other's patient's medications in the PDR and advise them to go talk to their doctors about their medications.

The Michigan Mental Health Code permits the transfer of a patient from one inpatient facility to another if it would not be detrimental or if an emergency is presented. The documents presented at the hearing show that all the paperwork required for transfer by law was fulfilled. There was no evidence that the transfer was detrimental to the Appellant.

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 proposed the transfer of the Appellant from [REDACTED] to the [REDACTED].

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

William D Bond

William D. Bond
Administrative Law Judge
for Nick Lyon, Acting Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [REDACTED]

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***** NOTICE *****

The Michigan Administrative Hearings 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 Hearings 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.