

**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. [REDACTED]

[REDACTED]
Appellant.
_____ /

DECISION AND ORDER

This case is before the Michigan Administrative Hearing System (MAHS) 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 [REDACTED]. Appellant appeared and testified on his own behalf. [REDACTED] Transfer Coordinator at the [REDACTED], appeared on behalf of the Department of Community Health. [REDACTED], Unit Psychiatrist at the [REDACTED] testified as a witness. [REDACTED] Transfer Coordinator, and [REDACTED], social worker, from the [REDACTED] were also present.

ISSUE

Did the Department properly transfer Appellant from the [REDACTED] to the [REDACTED] [REDACTED]?)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Appellant was admitted to the [REDACTED] after being found incompetent to stand trial on a number of charges he was facing. (Testimony of [REDACTED])
2. The [REDACTED] is a maximum security hospital. (Respondent's Exhibit B, page 1).
3. Over the years, Appellant's condition improved and, while he continues to exhibit some psychotic symptoms, his mood has stabilized and he is no longer violent. (Testimony of [REDACTED])

Docket No. 14-007967 MHT
Decision and Order

4. Accordingly, [REDACTED] determined that Appellant should be transferred to a less restrictive setting, such as the [REDACTED] (Testimony of [REDACTED])
5. On [REDACTED], the [REDACTED] approved the transfer between hospitals. (Respondent's Exhibit A, page 1).
6. On [REDACTED], the Department issued an Order of Transfer to the less restrictive setting on the basis that Appellant no longer requires treatment in a maximum security hospital. (Respondent's Exhibit B, page 1).
7. On [REDACTED], Appellant submitted an appeal of the transfer between hospitals. (Petitioner's Exhibit 1, page 1).
8. On [REDACTED], Appellant was transferred from the [REDACTED] to the [REDACTED]. (Testimony of [REDACTED])

CONCLUSIONS OF LAW

Regarding patient transfers between hospitals, MCL 330.1407 provides:

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.

Similarly, with respect to grounds for transfer, notice and objections, MCL 330.1536 states:

(1) A resident in a center may be transferred to any other center, or to a hospital operated by the department, if the

Docket No. 14-007967 MHT
Decision and Order

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.

Moreover, Michigan Administrative Code Rule 330.4011, regarding transfers between state hospitals, further provides:

(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

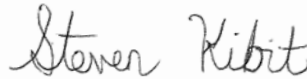
[REDACTED]
Docket No. 14-007967 MHT
Decision and Order

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**.



Steven J. Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

SK/db

cc: [REDACTED]