

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax (517) 373-4147

IN THE MATTER OF:

Docket No. 14-010423 CMH
Case No. [REDACTED]

[REDACTED]
Appellant

AMDENDED ORDER

This Amdended Order is being issued to correct a statement made by Respondent's representative at the hearing. The correction does not change the substance of the Order.

Pursuant to Appellant's request for hearing, a telephone pre-hearing conference was held in the above matter on [REDACTED]. Following the pre-hearing conference, a hearing was scheduled for [REDACTED]. On [REDACTED], Appellant filed a Motion to Preclude Relitigation Pursuant to the Doctrines of Res Judicata and/or Promissory Estoppel. At the commencement of the [REDACTED] hearing, the parties were given an opportunity to provide oral argument on Appellant's Motion.

In his Motion, Appellant argued that the issue giving rise to this appeal, namely whether Appellant is a person with a serious mental illness as defined by the Michigan Mental Health Code (MCL 330.1100d(3)), was already litigated by the parties in the [REDACTED] County Probate Court. Given that the issue has already been litigated between the parties, Appellant argued that further litigation was precluded by the doctrines of preclusion, collateral estoppel and res judicata. Appellant pointed out that Respondent had an opportunity to appeal the Probate Court decision, but did not.

While admitting that the Probate Court had determined Appellant to be a person with a serious mental illness as defined by the Michigan Mental Health Code (MCL 330.1100d(3)), Respondent took issue with some of the evidence presented at that hearing and suggested that **Appellant's** witnesses at the hearing were not as familiar with the definition of serious mental illness as it related to Medicaid coverage. Respondent also indicated that even if Appellant is a person with a serious mental illness, he would still need to be assessed to determine what services were medically necessary according to Medicaid policy. Respondent admitted that the County did not appeal the Probate Court's decision.

Having considered the parties' arguments and the applicable law, it is determined that Appellant's Motion must be granted. As Appellant correctly points out, the doctrine of res judicata is employed to prevent multiple suits litigating the same cause of action. The doctrine bars a second, subsequent action when (1) the prior action was decided on the

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merits, (2) both actions involve the same parties or their privies, and (3) the matter in the second case was, or could have been, resolved in the first. *Sewell v Clean Cut Mgmt, Inc*, 463 Mich 569, 575; 621 NW2d 222 (2001).

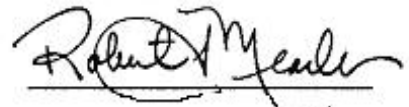
Here, Dr. [REDACTED], the psychiatrist from [REDACTED] County who found that Appellant was not a person with a serious mental illness was deposed and testified during the Probate Court hearing, as did Appellant's psychiatrist. After considering the evidence, the Probate Court determined that Appellant was a person with a serious mental illness as defined by the Mental Health Code. The Probate Court considered the same factors that would be considered in this administrative hearing and concluded that Appellant "has a diagnosable mental, behavioral and/or emotional disorder that affects him and has existed within the past year sufficient to meet diagnostic criteria, and has resulted in functional impairments substantially interfering with the major life activities that I just mentioned." (See Exhibit A to Appellant's Motion, Opinion Transcript, p 9, Ins 1-11).

Respondent did not appeal the Probate Court's Order, but simply brought Appellant in for another assessment, at which time it determined that Appellant was not a person with a serious mental illness as defined by the Mental Health Code. Respondent then issued a denial notice that gave rise to the instant hearing. In the denial notice, Respondent indicated, "The services for which you have applied were denied because Client does not meet criteria for Community Mental Health Services from CSTS as a person with a Serious Mental Illness as a result of not meeting the regulatory criteria specified within the Michigan Mental Health Code . . ." As such, the elements of res judicata have been met: 1) the prior action was decided on the merits, 2) both actions involve the same parties, and 3) the matter in the instant case was decided in the first.

Clearly, the issue in the present case has been litigated by the parties previously and Respondent did not appeal that determination. pursuant to the Probate Court's decision and the doctrine of res judicata, Appellant is a person with a serious mental illness as defined by the Michigan Mental Health Code. As such, Respondent must assess Appellant to determine what services he is entitled to under the medical necessity criteria found in Medicaid policy.

NOW THEREFORE IT IS ORDERED that:

- Appellant’s Motion to Preclude Relitigation Pursuant to the Doctrines of Res Judicata and/or Promissory Estoppel is GRANTED.
- Appellant is a person with a serious mental illness as defined by the Michigan Mental Health Code who is eligible to receive services through Respondent, Washtenaw Health and Human Services Organization.
- Respondent’s decision that Appellant is not a person with a serious mental illness under the Michigan Mental Health Code is REVERSED.
- Within 10 days of the issuance of this Order, Respondent must takes steps to begin the process of assessing Appellant to determine what services he is entitled to under the medical necessity criteria found in Medicaid policy.



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of
Health and Human Services

cc: [REDACTED]

RJM [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]