

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. 14-014697 MHT

██████████

██████████

██████████

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 ██████████. Appellant appeared and testified on his own behalf. ██████████, Social Work Supervisor and Admissions Transfer Coordinator at the ██████████, appeared and testified on behalf of the Michigan Department of Community Health. ██████████, Transfer Coordinator at the ██████████, was also present for the hearing.

ISSUE

Did the Department properly transfer 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. On ██████████, Appellant was admitted to the ██████████ after being adjudicated not guilty by reason of insanity (██████████ on an arson charge. (Testimony of ██████████).
2. Subsequently, in ██████████, Appellant was released from the ██████████ on Authorized Leave Status (ALS). (Testimony of ██████████).
3. As part of his authorized leave, Appellant signed a contract acknowledging that he was still a patient of the ██████████ and that he was subject to a ██████████ continuing hospitalization treatment order. (Respondent's Exhibit G, page 1).

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4. On [REDACTED], the [REDACTED] received notice from [REDACTED], a member of the [REDACTED] Committee at the [REDACTED] that Appellant needed to be returned to a hospital for evaluations based on information she had received regarding his psychiatric condition. (Respondent's Exhibit A, pages 1-2).
5. However, there were no beds for a male available at the [REDACTED] at that time. (Testimony of [REDACTED]).
6. A bed was available at the [REDACTED] that could accommodate Appellant. (Testimony of [REDACTED]).
7. The [REDACTED] then began the process of transferring Appellant to the [REDACTED]. (Respondent's Exhibit C, page 1; Testimony of [REDACTED]).
8. As part of that process, the [REDACTED] County Community Mental Health Authority approved the transfer between hospitals on [REDACTED]. (Respondent's Exhibit D, page 2).
9. On [REDACTED] the Department issued an Order of Transfer. (Respondent's Exhibit D, pages 3-4).
10. On [REDACTED] Appellant was transferred to the [REDACTED]. (Testimony of [REDACTED]).
11. At that time, Appellant was served with a Notice of Transfer and Right to Appeal. (Respondent's Exhibit F, page 1).
12. Appellant then submitted an appeal of the transfer between hospitals. (Respondent's Exhibit F, page 1).

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,

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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 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

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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.

In this case, pursuant to the above statutes and rule, the Department transferred Appellant from the [REDACTED] to the [REDACTED]

Appellant appealed that transfer, but does not actually dispute the transfer itself as he expressly testified that he prefers the [REDACTED] to the [REDACTED] [REDACTED]r. Instead, Appellant challenges his need to be hospitalized at all and wishes to be released into the community.

However, the undersigned Administrative Law Judge lacks jurisdiction over either the initial decision to hospitalize Appellant or the subsequent decision to return him to a hospital for evaluation.

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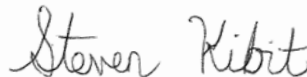
With respect to the decision that the undersigned Administrative Law Judge does have jurisdiction over, *i.e.* the decision to transfer Appellant from the [REDACTED] to the [REDACTED], the undersigned Administrative Law Judge finds that the transfer should be approved. The Department has provided sufficient reasons for the Appellant's transfer and sufficient evidence that the transfer would not be detrimental to the Appellant while Appellant has not provided any evidence to show that the proposed transfer would be detrimental to his overall treatment.

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]

***** 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 60 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 60 days of the mailing date of the rehearing decision.