



**Docket No. 2014-34409 CMH**  
**Decision & Order**

4. Appellant had been authorized to receive mental health services through CMH which included a mental health assessment, treatment planning, and individual therapy. The authorization period was [REDACTED] through [REDACTED]. Appellant was receiving his individual therapy sessions from a contract provider, [REDACTED]. (Exhibits A, B, 1 and testimony).
5. On [REDACTED] notified CMH that they were discharging the Appellant and discontinuing his individual therapy sessions due to his unacceptable behavior. (Exhibit B and testimony).
6. On [REDACTED], CMH Supervisor sent Appellant an Action Notice advising him that his individual therapy sessions with [REDACTED] were terminated, because [REDACTED] had discharged him and discontinued his therapy sessions. The notice stated that the Appellant case remained active with [REDACTED] and he was encouraged to return to [REDACTED] to continue his services. (Exhibit B and testimony).
7. On [REDACTED], MAHS received the Appellant's request for an Administrative Hearing that was dated [REDACTED]. Appellant's request for hearing included the Request for Hearing form and two additional handwritten pages. In the request for hearing Appellant, denied any improper behavior at his last therapy session and alleged that he was wrongfully discharged from his care at [REDACTED] and discriminated against because of information contained in medical records he provided to his therapist regarding a prior hospitalization. (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

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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—

Under approval from the Center for Medicaid and Medicaid Services (CMS) the Michigan Department of Community Health (MDCH) operates a section 1915(b) waiver called the Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the MDCH to provide services under the Managed Specialty Service and Supports Waiver and other State Medicaid Plan covered services. CMH must offer, either directly or under contract, a comprehensive array of services, as specified in Section 206 of the Michigan Mental Health Code, Public Act 258 of 1974, amended, and those services/supports included as part of the contract between the Department and CMH.

██████████ the supervisor at the ██████████ office provided testimony and authenticated computer records relating to the Appellant authorized mental health services. ██████████ was able to establish that the Appellant had received a mental health assessment and treatment planning through CMH. Appellant was also authorized to receive individual therapy. The authorization period was ██████████ through ██████████ ██████████ advised that the Appellant was receiving his individual therapy sessions from a contract provider, ██████████.

██████████ established that on ██████████ called to advise CMH they were discharging the Appellant and discontinuing his individual therapy sessions due to unacceptable behavior. ██████████ then sent Appellant an Action Notice on ██████████ advising him that his individual therapy sessions with ██████████ were terminated, because ██████████ had discharged him and discontinued his therapy sessions. The notice stated that the Appellant case remained active with ██████████ and he was encouraged to return to ██████████ to continue his services. ██████████ established that since ██████████ was a contracted provider, they had no authority over them and could not force them to accept a client or prevent them from discharging a client referred to them. ██████████ indicated Appellant was referred back to CMH and given the

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option of being placed with another contract provider or being served by a therapist with [REDACTED]. Appellant ultimately chose to be seen by a therapist at the [REDACTED] office. The records authenticated by [REDACTED] shows a subsequent authorization for individual therapy sessions from [REDACTED] through [REDACTED], at which time the Appellant was due for a new Individual Plan of Service.

Appellant and his wife testified at the hearing. Appellant testified that he hasn't received any treatment. He acknowledged being referred to [REDACTED]. Appellant indicated his last therapy session at [REDACTED] went fine, but that he gave them medical records relating to his hospitalization at the last session. Thereafter he received a call from their doctor, the Medical Director, who advised him that they were discharging him and cancelling his last two scheduled therapy sessions. Appellant also acknowledged that he returned to the [REDACTED] office for services and apparently had an incident with his therapist [REDACTED]. Appellant was quite insistent that he hasn't received proper mental health treatment and wants to receive the treatment he is entitled to receive.

Appellant's wife testified that she believed Appellant had rapport with his therapist [REDACTED] at [REDACTED]. Appellant's wife acknowledged that the Appellant provided the therapist with the records relating to his hospitalization during his last therapy session. Appellant's wife indicated the therapist said she was going to take the records to their doctor for review and would let them know the results. She indicated the Appellant had two more appointments for therapy sessions scheduled. Thereafter, [REDACTED] the Medical Director for [REDACTED] called to advise them that the Appellant could no longer be seen by [REDACTED], and that his last [REDACTED] appointments were cancelled. Appellant's wife said he got the Request for Hearing form and sent it in. She further stated that the Appellant expected that [REDACTED] would be present for the hearing as they were the ones that had discharged him.

In this case, the Appellant was being seen by a contracted provider for CMH. The contracted provider discharged the Appellant for what they termed unacceptable or improper behavior. CMH itself took no action against the Appellant and had no authority over the contract provider to require them to continue seeing the Appellant. CMH kept his case open and offered to have him see another contract provider or to have him return to [REDACTED] for individual therapy sessions. Appellant ultimately chose to see a therapist at the [REDACTED] office. The records admitted at the hearing demonstrated a subsequent authorization for these therapy services (from [REDACTED] through [REDACTED] [REDACTED] which are not the subject of this appeal.

The Appellant has demonstrated the need for additional mental health services including individual therapy sessions, and the Respondent does not dispute this fact. However, the only action take at the time the Appellant filed his appeal on [REDACTED] was the discharge from services by the contract provider which CMH had no control over. [REDACTED] acted appropriately in response to the discharge by [REDACTED] offering the Appellant the option of getting services through another contract provider or returning

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to ██████████ for services. Appellant chose ██████████. Any actions taken by ██████████ subsequent to the date the Appellant filed his request for a hearing are not a proper subject for this appeal.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that the CMH did not take an action affording the Appellant an opportunity for a Medicaid Fair Hearing. It was their contract provider who acted to discharge the Appellant and discontinue his individual therapy sessions. Respondent CMH had no control over these actions and responded appropriately to the actions of the contract provider.

**IT IS THEREFORE ORDERED THAT:**

The Department's decision is **AFFIRMED**.

*William D Bond*

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William D. Bond  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: ██████████

Date Mailed: ██████████

WDB/db

cc: ██████████

**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System for the Department of Community Health 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.

