

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**  
P. O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax (517) 373-4147

**IN THE MATTER OF:**

██████████

Appellant

\_\_\_\_\_ /

Docket No. 2014-706 CMH

██████████

██████████

**DECISION AND ORDER**

This matter is before the undersigned Administrative Law Judge, pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon a request for a hearing filed by Appellant.

After due notice, a hearing was held on ██████████. Appellant appeared and testified on his own behalf. ██████████, Fair Hearings Officer, represented Respondent ██████████. ██████████, Appellant's Case Manager at ██████████ testified as a witness for Respondent.

**ISSUE**

Did ██████████ properly terminate Appellant's services?

**FINDINGS OF FACT**

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

1. Appellant is a ██████ year-old Medicaid beneficiary who has been diagnosed with schizoaffective disorder, cannabis dependence, and alcohol dependence. (Respondent's Exhibit 1, pages 1-2).
2. ██████████ is under contract with the Michigan Department of Community Health (MDCH) to provide specified Medicaid covered services to people who reside in its service area and met the criteria for services.
3. Appellant had been receiving supports coordination services through ██████████. That is the only service Appellant was receiving. (Testimony of Appellant; Testimony of ██████████).
4. The supports coordination was being used in support of the three goals of Appellant's Individual Plan of Service (IPOS): to keep Appellant's life steady and healthy; to keep Appellant's individual living environment

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organized and better; and to work on getting his driver's license back. (Respondent's Exhibit 2, page 3).

5. The IPOS was dated [REDACTED] and, since at least that time, Appellant has maintained his independent living environment, with limited supports in place, and has remained healthy. (Respondent's Exhibit 2, page 3; Testimony of Appellant).
6. With respect to the third goal, Appellant went through two hearings at the [REDACTED] office and was granted a restricted license. (Respondent's Exhibit 2, page 3; Testimony of Appellant).
7. Appellant also refused any other specialty services and no new goals were developed for his IPOS. (Testimony of Appellant; Testimony of [REDACTED]).
8. Appellant did still want the transportation assistance he was receiving as part of his supports coordination. (Testimony of Appellant; Testimony of [REDACTED]).
9. On [REDACTED] conducted a review of Appellant's services with Appellant and determined that Appellant's only service through [REDACTED], *i.e.* supports coordination, should be terminated because it was no longer medically necessary. (Respondent's Exhibit 9, pages 1-2; Testimony of [REDACTED]).
10. [REDACTED] also referred Appellant to other Medicaid programs that could potentially meet his transportation needs. (Testimony of Appellant; Testimony of [REDACTED]).
11. On [REDACTED] sent Appellant written notice that his supports coordination was going to be terminated. The notice also informed Appellant of his right to request a hearing if he disagreed with the termination. (Respondent's Exhibit 18, pages 1-2).
12. On [REDACTED] sent Appellant written notice that his supports coordination had been terminated. That second notice also informed Appellant of his right to request a hearing. (Respondent's Exhibit 19, pages 1-2).
13. On October 2, 2013, the Michigan Administrative Hearing System (MAHS) received the Request for Hearing filed by Appellant in this matter. (Petitioner's Exhibit 1, page 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 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*

Moreover, 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

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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...

The State of Michigan has opted to simultaneously utilize the authorities of the 1915(b) and 1915(c) programs to provide a continuum of services to disabled and/or elderly populations. Under approval from the Centers for Medicare and Medicaid Services (CMS) the Department of Community Health (MDCH) operates a section 1915(b) and 1915(c) Medicaid Managed Specialty Services and Support program waiver.

contracts with the Michigan Department of Community Health to provide services under the waiver pursuant to its contract obligations with the Department and supports coordination is among the services it can provide. With respect to supports coordination, the applicable version of the Medicaid Provider Manual (MPM) provides

**17.3.L. SUPPORT AND SERVICE COORDINATION**

Functions performed by a supports coordinator, supports coordinator assistant, services and supports broker, or otherwise designated representative of the PIHP that **include** assessing the need for support and service coordination, and assurance of the following:

- Planning and/or facilitating planning using person-centered principles
- Developing an individual plan of service using the person-centered planning process
- Linking to, coordinating with, follow-up of, advocacy with, and/or monitoring of Specialty Services and Supports and other community services/supports.
- Brokering of providers of services/supports
- Assistance with access to entitlements and/or legal representation
- Coordination with the Medicaid Health Plan, Medicaid fee-for-service, or other health care providers.

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The role of the supports coordinator assistant is to perform the functions listed above, as they are needed, in lieu of a supports coordinator or case manager. A beneficiary would have only one of the three possible options: targeted case manager, supports coordinator, or supports coordinator assistant. When a supports coordinator assistant is used, a qualified supports coordinator or targeted case manager must supervise the assistant. The role and qualifications of the targeted case manager are described in the Targeted Case Management section of this chapter.

A services and supports broker is used to explore the availability of community services and supports, housing, and employment and then to make the necessary arrangement to link the beneficiary with those supports. The role of the supports coordinator or supports coordinator assistant when a services and supports broker is used is to perform the remainder of the functions listed above as they are needed, and to assure that brokering of providers of services and supports is performed.

Whenever services and supports brokers provide any of the supports coordination functions, it is expected that the beneficiary will also have a supports coordinator or case manager, or their assistant, employed by the PIHP or its provider network who assures that the other functions above are in place.

If a beneficiary has both a supports coordinator or supports coordinator assistant AND a services and supports broker, the individual plan of service must clearly identify the staff who is responsible for each function. The PIHP must assure that it is not paying for the supports coordinator (or supports coordinator assistant) and the services and supports broker to perform service brokering. Likewise, when a supports coordinator (or supports coordinator assistant) facilitates a person-centered planning meeting, it is expected that the PIHP would not "double count" the time of any services and supports broker who also attends. During its annual on-site visits, the MDCH will review individual plans of service to verify that there is no duplication of service provision when both a supports coordinator assistant and a services and supports broker are assigned supports coordination responsibilities in a beneficiary's plan of service.

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Supports strategies will incorporate the principles of empowerment, community inclusion, health and safety assurances, and the use of natural supports. Supports coordinators will work closely with the beneficiary to assure his ongoing satisfaction with the process and outcomes of the supports, services, and available resources.

Supports Coordination is reported only when there is face-to-face contact with the beneficiary. Related activities, such as telephone calls to schedule appointments or arrange supports, are functions that are performed by a supports coordinator but not reported separately. Supports coordination functions must assure:

- The desires and needs of the beneficiary are determined
- The supports and services desired and needed by the beneficiary are identified and implemented
- Housing and employment issues are addressed
- Social networks are developed
- Appointments and meetings are scheduled
- Person-centered planning is provided, and independent facilitation of person-centered planning is made available
- Natural and community supports are used
- The quality of the supports and services, as well as the health and safety of the beneficiary, are monitored
- Income/benefits are maximized
- Activities are documented
- Plans of supports/services are reviewed at such intervals as are indicated during planning

While supports coordination as part of the overall plan implementation and/or facilitation may include initiation of other coverage and/or short-term provision of supports, it shall not include direct delivery of ongoing day-to-day supports and/or training, or provision of other Medicaid services. Supports coordinators are prohibited from exercising the agency's authority to authorize or deny the provision of services. Supports coordination may not duplicate services that are the responsibility of another program.

The supports coordination functions to be performed and the frequency of face-to-face and other contacts are specified in the beneficiary's plan. The beneficiary's record must contain sufficient information to document the provision of supports coordination, including the nature of the service, the date, and the location of contacts, including whether the contacts were face-to-face. The frequency and scope of supports coordination contacts must take into consideration the health and safety needs of the individual.

### **Qualifications of Supports Coordinators**

A minimum of a Bachelor's degree in a human services field and one year of experience working with people with developmental disabilities if supporting that population; or a Bachelor's degree in a human services field and one year of experience with people with mental illness if supporting that population.

### **Qualifications of Supports Coordinator Assistants and Services and Independent Services and Supports Brokers**

Minimum of a high school diploma and equivalent experience (i.e., possesses knowledge, skills and abilities similar to supports coordinator qualifications) and functions under the supervision of a qualified supports coordinator. Independent services and supports brokers must meet these qualifications and function under the guidance and oversight of a qualified supports coordinator or case manager.

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However, while supports coordination is a Medicaid-covered service, Medicaid beneficiaries are still only entitled to medically necessary covered services for which they are eligible and services must be provided in the appropriate scope, duration, and intensity to reasonably achieve the purpose of the covered service. See 42 CFR 440.230.

With respect to medical necessity, the MPM, July 1, 2013 version, Mental Health/Substance Abuse Chapter, pages 12-13, provides:

**2.5 MEDICAL NECESSITY CRITERIA**

The following medical necessity criteria apply to Medicaid mental health, developmental disabilities, and substance abuse supports and services.

**2.5.A. MEDICAL NECESSITY CRITERIA**

Mental health, developmental disabilities, and substance abuse services are supports, services, and treatment:

- Necessary for screening and assessing the presence of a mental illness, developmental disability or substance use disorder; and/or
- Required to identify and evaluate a mental illness, developmental disability or substance use disorder; and/or
- Intended to treat, ameliorate, diminish or stabilize the symptoms of mental illness, developmental disability or substance use disorder; and/or
- Expected to arrest or delay the progression of a mental illness, developmental disability, or substance use disorder; and/or
- Designed to assist the beneficiary to attain or maintain a sufficient level of functioning in order to achieve his goals of community inclusion and participation, independence, recovery, or productivity.

### 2.5.B. DETERMINATION CRITERIA

The determination of a medically necessary support, service or treatment must be:

- Based on information provided by the beneficiary, beneficiary's family, and/or other individuals (e.g., friends, personal assistants/aides) who know the beneficiary;
- Based on clinical information from the beneficiary's primary care physician or health care professionals with relevant qualifications who have evaluated the beneficiary;
- For beneficiaries with mental illness or developmental disabilities, based on person-centered planning, and for beneficiaries with substance use disorders, individualized treatment planning;
- Made by appropriately trained mental health, developmental disabilities, or substance abuse professionals with sufficient clinical experience;
- Made within federal and state standards for timeliness;
- Sufficient in amount, scope and duration of the service(s) to reasonably achieve its/their purpose; and
- Documented in the individual plan of service.

Here, ██████████ terminated Appellant's supports coordination, which was the sole service he was receiving through ██████████ on the basis that it was no longer medically necessary. Appellant has appealed that termination and, in doing so, bears the burden of proving by a preponderance of the evidence that ██████████ erred. For

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the reasons discussed below, this Administrative Law Judge finds that Appellant has not met that burden of proof.

Appellant has refused specialty services and is only interested in supports coordination, in particular the transportation assistance he receives as part of his supports coordination. However, assistance with transportation itself is not a covered service. Assistance with transportation is also potentially available through other programs within Medicaid and it is undisputed in this case that Appellant was referred to those other programs.

Moreover, while assistance with transportation can be authorized as part of supports coordination, Appellant has already met all of the goals described in his IPOS that his supports coordinator was assisting him with. He has generally maintained an independent and healthy living environment while also receiving a restricted driver's license. No new goals have been developed for his IPOS and Appellant did not identify any other goals he has during the hearing.

Accordingly, Appellant has failed to meet his burden of demonstrating that supports coordination is still medically necessary and [REDACTED] decision to terminate the service should be sustained.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that [REDACTED] properly terminated Appellant's services.

**IT IS THEREFORE ORDERED** that:

Respondent's decision is **AFFIRMED**.



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Steven J. Kibit  
Administrative Law Judge  
for James K. Haveman, Director  
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

  
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SK/db

cc:



**\*\*\* 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 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.