

**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. 15-000454 MHT

██████████

Appellant

_____ /

HEARING DECISION AND ORDER

This case is before the Michigan Administrative Hearing System 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 ██████████. The Appellant appeared without representation and testified on his own behalf. ██████████ Transfer Coordinator appeared and testified on behalf of the ██████████ ██████████ hereinafter the ██████████

██████████, Admission Coordinator at ██████████, appeared as representative for ██████████ ██████████ and ██████████ LMSW, Appellant's psychiatrist and social worker, testified on behalf of ██████████.

ISSUE

Did the Department properly transfer the 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. The Appellant was a resident at ██████████. (Testimony)
2. On ██████████ was assigned to a team to treat Appellant for his psychiatric conditions and physical medical conditions which included manic episodes, delusions, congestive heart failure, hypertension and medication non-compliance. (Testimony)
3. ██████████ and Appellant's treating medical doctor prescribed nearly ██████████

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- different medications for Appellant to treat his medical and psychiatric conditions. (Testimony)
4. The new regimen provided sufficient medical management of Appellant's needs and his symptoms were well controlled. (Testimony)
 5. Appellant wanted to take Zyprexa and Lithium only. (Testimony)
 6. [REDACTED] determined that Zyprexa and Lithium only regimen was insufficient because Appellant's symptoms were uncontrolled. (Testimony)
 7. Appellant requested a transfer to [REDACTED] for his treatment. (Testimony)
 8. [REDACTED] agreed to accept Appellant as a patient because no other doctor would accept him because Appellant has a history of assaulting the treating doctors. (Testimony)
 9. Appellant was transferred to [REDACTED] for his psychiatric treatment. (Testimony)
 10. On [REDACTED], Appellant hit [REDACTED] on the cheek and temple. (Testimony)
 11. Appellant has a long history of assaultive, threatening, intimidating behaviors. He has a history of hospitalizations at CFP in the past due to assaultive behavior. (Testimony)
 12. On [REDACTED], [REDACTED] authorized the transfer of the Appellant from [REDACTED] to the [REDACTED] (or CFP). The CMHA letter of authorization and the Order of Transfer were forwarded to [REDACTED], Admission and Transfer Coordinator at CFP. (Respondent's Exhibit A).
 13. On or about [REDACTED], Appellant's treatment team requested that he be returned to CFP due to [REDACTED] no longer being the least restrictive facility for his needs. The team indicated the behaviors displayed by the Appellant created an environment of hostility and fear at [REDACTED] that interfered with the treatment of others housed in the unit. Appellant had also assaulted his treating psychiatrist and broke light fixtures in the dining room. The NGRI committee approved his transfer to CFP. (Testimony).
 14. On [REDACTED], the [REDACTED] approved the patient transfer. (Respondent's Exhibit D)
 15. On [REDACTED], the Order of Transfer was signed by [REDACTED],

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Director, Bureau of State Hospitals and Behavioral Health Administrative Operations. (Respondent's Exhibit A).

16. On [REDACTED], the Appellant was transferred and received his Notice of Transfer and Right to Appeal. A copy of the notice was given to [REDACTED] n [REDACTED]. (Respondent's Exhibit B)
17. On [REDACTED], Appellant was given a second Notice of Transfer and right to appeal at the [REDACTED], stating that the transfer was due to an emergency, wherein Appellant appealed his transfer. (Respondent's Exhibit C).
18. During the hearing, Appellant testified that the social worker called him a drunk. He also stated that the psychiatrist was gay and should burn in hell. Appellant wants to return to [REDACTED] where he can be placed on the Geriatric Ward because he is [REDACTED] years old and a senior citizen. From there Appellant would like to return to society. Appellant got upset with his psychiatrist because he gave Appellant too much medication and Appellant only wants to take Zyprexa and Lithium. (Testimony).
19. The instant request for hearing was received by the Michigan Administrative Hearing System (MAHS) for the Department of Community Health on [REDACTED]

CONCLUSIONS OF LAW

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. [MCL 330.1407].

(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. [MCL 330.1536].

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Rule 330.4011 Transfer between state hospitals.

(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 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. (Mich Admin Code R 330.4011, emphasis supplied).

The Appellant now resides at the [REDACTED] following behaviors displayed by the Appellant that created an environment of hostility and fear at [REDACTED] that interfered with the treatment of others housed in the unit. Appellant had also threatened to kill his treating psychiatrist. [REDACTED] and

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[REDACTED], LMSW, Appellant's psychiatrist and social worker at Walter Reuther established that the Appellant was admitted to [REDACTED] on [REDACTED] by the [REDACTED] County Probate Court Continuing Order with a [REDACTED] Month Review Report completed [REDACTED]. Appellant was transferred after continually physically assaulting his treating psychiatrist and demanding that his medications be discontinued or reduced. Appellant was then transferred to [REDACTED] because he could not be adequately or safely managed at [REDACTED]. The geriatric unit is not adequate for Appellant's care because it is for older patients who are medically fragile. Appellant is not medically fragile.

[REDACTED] stated he began working with the Appellant [REDACTED], and adjusted his medication. Appellant's symptoms improved and he was adequately medically managed. Appellant requested transfer to [REDACTED]. Thereafter the Appellant's behaviors became more and more unacceptable.

[REDACTED] stated Appellant's behavior was disrupting the treatment of the other patients in his unit. Appellant refused to work on his skills and his symptoms became uncontrolled. Appellant's behavior requires a more structured environment. [REDACTED] stated Appellant assaulted [REDACTED] another psychiatrist who was treating the Appellant. [REDACTED] testified that Appellant has a long history of threatening, assaultive, intimidating behaviors. He has assaulted doctors in the past. [REDACTED] stated the treatment team determined that they were unable to provide the level of care Appellant needed and sought the transfer to the [REDACTED].

On review, this transfer request was the result of behaviors displayed by the Appellant that created an environment of hostility and fear at [REDACTED] that interfered with the treatment of others housed in the unit. Appellant also physically assaulted his treating psychiatrist. Appellant was considered to be a high risk patient in need of a more secure and highly structured environment. Thus, the transfer to the Forensic Center - a more secure setting – was a reasonable resolution.

The Michigan Mental Health Code permits the transfer of a patient from one inpatient facility to another if it would not be detrimental or if an emergency is presented. The documents presented at the hearing show that all the paperwork required for transfer by law was fulfilled. There was no evidence that the transfer was detrimental to the Appellant.

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 [REDACTED] to the [REDACTED].

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.

[REDACTED]
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Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Acting Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

LYL/db

cc: [REDACTED]

***** NOTICE *****

The Michigan Administrative Hearings 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 Hearings 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.