

**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

██████████

Appellant

_____ /

Docket No. 15-023244 CMH

Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 upon Appellant's request for a hearing.

After due notice, a hearing was held on ██████████. ██████████, the manager at Appellant's AFC home, appeared and testified on Appellant's behalf. Appellant also appeared.

██████████, Manager, Due Process, appeared on behalf of ██████████ (CMH, ██████████ or Department). ██████████, Utilization Care Coordinator, appeared as a witness.

ISSUE

Was the CMH's denial of Appellant's request for Skill-Building services proper?

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, born ██████████ who has been receiving services through ██████████ (CMH). (Exhibit A, p 1; Testimony)
2. CMH is under contract with the Department of Health and Human Services (MDCH) to provide Medicaid covered services to people who reside in the CMH service area. (Testimony)
3. Appellant is diagnosed with Delusional Disorder, Dementia of Alzheimer's Type, Hypertension and Diabetes. (Exhibit A, pp 4, 43; Testimony).

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4. Appellant currently resides in an Adult Foster Care (AFC) home. (Exhibit A, pp 1-2; Testimony)
5. Appellant currently receives the Medicaid Covered Specialty Mental Health Services and Supports of Targeted Case Management and Medication Clinic services. (Exhibit A, p 10; Testimony)
6. On [REDACTED], a formal request was made to CMH's Utilization Management Department for the authorization of Skill Building services. (Exhibit A; Testimony).
7. Following a review of Appellant's records, CMH's Utilization Management Department determined that Appellant did not meet the medical necessity criteria for Skill Building services and an Adequate Action Notice denying those services was sent to Appellant on [REDACTED]. (Exhibit A, pp 11-13; Testimony).
8. Appellant's request for hearing was received by the Michigan Administrative Hearing System on [REDACTED]. (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 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...

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 Health and Human Services (MDCH) operates a section 1915(b) Medicaid Managed Specialty Services and Support program waiver. CMH contracts with the Michigan Department of Health and Human Services to provide services under the waiver pursuant to its contract obligations with the Department.

Medicaid beneficiaries are entitled to medically necessary Medicaid covered services for which they are eligible. 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 Skill-Building Assistance, the Medicaid Provider Manual provides:

17.3.J. SKILL-BUILDING ASSISTANCE

NOTE: This service is a State Plan EPSDT service when delivered to children birth-21 years.

Skill-building assistance consists of activities identified in the individual plan of services and designed by a professional within his/her scope of practice that assist a beneficiary to increase his economic self-sufficiency

and/or to engage in meaningful activities such as school, work, and/or volunteering. The services provide knowledge and specialized skill development and/or support. Skill-building assistance may be provided in the beneficiary's residence or in community settings.

Documentation must be maintained by the PIHP that the beneficiary is not currently eligible for sheltered work services provided by Michigan Rehabilitation Services (MRS). Information must be updated when the beneficiary's MRS eligibility conditions change.

Coverage includes:

- Out-of-home adaptive skills training: Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills; and supports services, including:
 - Aides helping the beneficiary with his mobility, transferring, and personal hygiene functions at the various sites where adaptive skills training is provided in the community.
 - When necessary, helping the person to engage in the adaptive skills training activities (e.g., interpreting).

Services must be furnished on a regularly scheduled basis (several hours a day, one or more days a week) as determined in the individual plan of services and should be coordinated with any physical, occupational, or speech therapies listed in the plan of supports and services. Services may serve to reinforce skills or lessons taught in school, therapy, or other settings.

- Work preparatory services are aimed at preparing a beneficiary for paid or unpaid employment, but are not job task-oriented. They include teaching such concepts as attendance, task completion, problem solving, and safety. Work preparatory services are provided to people not able to join the general workforce, or are unable to participate in a transitional sheltered workshop within one year (excluding supported employment programs).
- Activities included in these services are directed primarily at reaching habilitative goals (e.g., improving attention span and motor skills), not at teaching specific job skills.

These services must be reflected in the beneficiary's person-centered plan and directed to habilitative or rehabilitative objectives rather than employment objectives.

- Transportation from the beneficiary's place of residence to the skill building assistance training, between skills training sites if applicable, and back to the beneficiary's place of residence.

Coverage excludes:

- Services that would otherwise be available to the beneficiary.

Medicaid Provider Manual
Mental Health/Substance Abuse Chapter
October 1, 2015, pp 134-135

The Michigan Administrative Code also addresses the responsibilities of licensed Adult Foster Care (AFC) homes in Michigan:

R 400.1408 Resident care; licensee responsibilities.

Rule 8. (1) A licensee shall provide basic self-care and habilitation training in accordance with the resident's written assessment plan.

(2) A licensee shall assure the availability of transportation services.

(3) A licensee shall provide the following when specified in the resident's written assessment plan:

(a) Direction and opportunity for the growth and development of a resident which are achieved through activities which foster independent functioning, such as dressing, grooming, manners, shopping, cooking, money management, and use of public transportation.

(b) Opportunity for involvement in educational, employment, and day program opportunities.

(4) A licensee shall provide all of the following:

(a) Opportunity for the resident to develop positive social skills.

(b) Opportunity for the resident to have contact with relatives and friends.

(c) Opportunity for community-based recreational activities.

- (d) Opportunity for privacy and leisure time.
- (e) Opportunity for religious education and attendance at religious services of the resident's religious faith.

MAC R 400.1408

CMH's Utilization Care Coordinator testified that she is a Licensed Master's Social Worker (LMSW) and her department considers requests for services and determines if those services are medically necessary. CMH's Utilization Care Coordinator testified that she sent out the Adequate Action Notice denying Appellant's request for Skill Building services after reviewing Appellant's Individual Plan of Service (IPOS), Psychosocial Assessment, and other records from Appellant's file. CMH's Utilization Care Coordinator indicated that Appellant did not meet medical necessity criteria for Skill Building because none of the goals or objectives in Appellant's IPOS relate to the goals of Skill Building, which include increasing economic self-sufficiency, or engaging in meaningful activities such as school, work, or volunteering. To the contrary, CMH's Utilization Care Coordinator indicated that the goals in Appellant's IPOS dealt with psychiatric stability, health and safety, maintaining her Social Security income, stable housing, and increased community involvement. CMH's Care Management Coordinator indicated that the goals in Appellant's IPOS could be met through, and were the responsibility of, her AFC home and natural supports.

Appellant's AFC Home Manager testified that Appellant's memory is not good, but that she is in need of some training in order to assist with her daily living skills and in order to interact better with others. Appellant's AFC Home Manager indicated that it was difficult for the AFC home to provide Appellant with socialization options because the other residents of the home are much younger than Appellant and often leave each day for their own programs. Appellant's AFC Home Manager testified that the skill building program requested could help Appellant learn how to ride the bus and possibly do shopping on her own. Appellant's AFC Home Manager testified that she has tried to put Appellant in some other day programs, but they did not work out. Appellant's AFC Home Manager indicated that she requested the instant program because Appellant's roommate goes to the program and Appellant has enjoyed it when she has tagged along. Appellant's AFC Home Manager testified that Appellant has a daughter, but she has infrequent contact with Appellant. Appellant's AFC Home Manager did indicate that Appellant's ex-husband comes and spends time with Appellant and takes her out, although Appellant does not always want to go with him. Appellant's AFC Home Manager testified that the home does go on group outings at least once per month, but that Appellant does not always want to go.

Appellant bears the burden of proving by a preponderance of the evidence that she met the medical necessity criteria to have Medicaid-covered Skill-Building services. The CMH provided sufficient evidence that medical necessity does not exist for Medicaid covered skill-building service. As indicated above, skill building is designed to assist a beneficiary to increase his or her economic self-sufficiency and/or to engage in

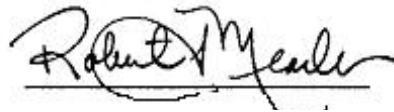
meaningful activities such as school, work, and/or volunteering. Here, none of the goals in Appellant's IPOS or supporting documentation support Skill Building services. Appellant has no plans to seek employment, school or volunteering activities and the socialization goals in Appellant's IPOS can be met through the AFC home and informal supports. As such, the CMH's decision must be upheld. Hopefully, Appellant will be able to find a non-skill building day program that meets her needs and she is comfortable with.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH's denial of Appellant's request for Medicaid covered Skill-Building service was in accordance to policy.

IT IS THEREFORE ORDERED that:

The CMH decision is **AFFIRMED**.



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

Date Mailed: [REDACTED]

cc: [REDACTED]

RJM/clg

***** 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.