

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P. O. Box 30763, Lansing, MI 48909
(517) 373-0722; Fax (517) 373-4147

IN THE MATTER OF:

MAHS Docket No. 15-020022 CMH

██████████

██████████ ██████████

Appellant

_____ /

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 Appellant's request for hearing.

After due notice, a telephone hearing was held on ██████████. Appellant appeared and testified on her own behalf. ██████████ Medicaid Fair Hearings Officer, appeared and testified on behalf of the Respondent ██████████ Mental Health Authority (██████████. ██████████), Medicaid Fair Hearings Officer in training, was also present 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 previously lived in ██████████ County and was receiving services through ██████████ and one of its contracted providers, the ██████████ ██████████. (Undisputed testimony).
2. In ██████████ Appellant moved to ██████████ County. (Undisputed testimony).
3. She continued to receive services through ██████████ and the ██████████ ██████████ after the move. (Undisputed testimony).
4. On ██████████ The ██████████ sent Appellant written notice that her services would be terminated, effective ██████████ because she had moved out of ██████████ County. (Exhibit A, page 1).

5. On ██████████ the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant in this matter. (Exhibit 1, pages 1-3).

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 statutes, 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

Additionally, 42 CFR 430.10 states:

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 also 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...

42 USC 1396n(b)

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 (DHHS) operates a section 1915(b) and 1915(c) Medicaid Managed Specialty Services and Support program waiver.

Through its Mental Health Code, the State of Michigan has also organized delivery of mental health and developmental disability services through a county-based community mental health services programs (CMHSPs) or affiliations of CMHSPs, as Prepaid Inpatient Health Plans (PIHPs). See MCL 330.1200 *et seq.*; Medicaid Provider Manual, Mental Health/Substance Abuse Chapter, Section 1.3 Administrative Organization. Regarding financial responsibilities between counties, the Mental Health Code also provides that financial responsibility for services may be transferred from the county of residence to another county in cases where a beneficiary has entered a dependent living setting, boarding school or facility, and where both community mental health services programs, the individual/guardian, and the Department agree to the transfer. See MCL 330.1306; MCL 330.1307.

Here, ██████████ terminated Appellant's services on the basis Appellant no longer lives in ██████████ County after voluntarily moving years ago and that she needs to seek services through the community mental health services program in ██████████ County, her new county of residence.

In response, Appellant testified that the ██████████ was fully aware of the move and she is not sure why it is a problem now. She also testified that has been stable with the medications and doctor provided through the ██████████. She further testified that she has explored services through the ██████████ County Community Mental Health Authority, was deemed to eligible, and saw a therapist multiple times; but that she later learned through another beneficiary, a receptionist and her therapist that the service provider in ██████████ County will not prescribe the medications Appellant needs.

Appellant bears the burden of proving by a preponderance of the evidence that ██████████ erred in terminating his services.

Based on the record in this case, Appellant has failed to meet that burden of proof and the Respondent's decision must be affirmed.

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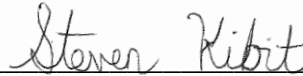
As argued by Respondent, Appellant must seek services through the appropriate CMHSP or PIHP in her county of residence and there is no basis in this case for making ██████████ County the county of financial responsibility. Moreover, the fact that the ██████████ may have known about the move previously has no bearing on this case as any past mistake does not entitle Appellant to services now and the undersigned Administrative Law Judge can only review the decision that is before him. Likewise, Appellant's argument the termination should be reversed because the service provider in ██████████ County cannot meet her needs must also be rejected as Appellant's unsupported testimony fails to reflect that she was denied any services and, to the extent she is denied any services in the future, she could always file another request for administrative hearing if appropriate.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that:

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



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

Date Mailed: ██████████

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.