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

P. O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax (517) 373-4147

IN THE MATTER OF:

Docket No. 15-013409 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 a request for a hearing filed on the minor Appellant's behalf.

After due notice, a telephone hearing was held on , Appellant's mother and Hearing Representative, appeared and testified on Appellant's behalf.

, Fair Hearings Officer, and , Medicaid Supervisor testified on behalf of the Community Mental Health for , (CMH), subcontractor with the Michigan Department of Health and Human Services (DHHS/Department).

ISSUE

Did the CMH properly terminate Appellant's Community Psychiatric Supportive Treatment/Home Based Services due to the CAFAS score no longer triggering eligibility?

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 who had been receiving home based services with CMH including therapy services and ongoing supportive intervention since

2. Pursuant to a quarterly review requirement, on or about 1 the CMH conducted a quarterly CAFAS assessment that showed Appellant to have a score of 40, a change in her total score of 50. (Exhibit A.9). Pursuant to the assessment, the score results show an improvement. (Exhibit A.10).

3. In order to be eligible for home based services, Appellant must have a score of 80 or greater. To be eligible for services, Appellant must have a score of 50 or greater. (Testimony).

4. The CMH offered outpatient services which the family declined. (Exhibit A.1).

5. On [redacted], the CMH sent Appellant and his representative written notice that the request for services will be terminated-community psychiatric supportive treatment, medication review, and face-to-face-H0036 on the grounds that Appellant no longer met medical necessity. (Exhibit A).

6. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on the minor Appellant's behalf in this matter.

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

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 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.

Here, the CMH contracts with the DHHS to provide services pursuant to its contract with the Department and eligibility for services through it is set by Department policy, as outlined in the Medicaid Provider Manual ("MPM"). Specifically, the MPM states that:

> **1.6 BENEFICIARY ELIGIBILITY**
>
> *A Medicaid beneficiary with mental illness, serious emotional disturbance or developmental disability who is enrolled in a Medicaid Health Plan (MHP) is eligible for specialty mental health services and supports when his needs exceed the MHP benefits.* (Refer to the Medicaid Health Plans Chapter of this manual for additional information.) Such need must be documented in the individual's clinical record.
>
> The following table has been developed to assist health plans and PIHPs in making coverage determination decisions related to outpatient care for MHP beneficiaries. Generally, as the beneficiary's psychiatric signs, symptoms and degree/extent of functional impairment increase in

> severity, complexity and/or duration, the more likely it becomes that the beneficiary will require specialized services and supports available through the PIHP/CMHSP. For all coverage determination decisions, it is presumed that
>
> the beneficiary has a diagnosable mental illness or emotional disorder as defined in the most recent Diagnostic and Statistical Manual of the Mental Disorders published by the American Psychiatric Association.

MPM, April 1, 2015 version
Mental Health/Substance Abuse Chapter, page 3
(Emphasis added by ALJ) See also MCL 330.1100

Specific to the case here, the Mental Health Chapter of the MPM provides for home-based services under Section 7. This Section states in part:

> SECTION 7 – HOME-BASED SERVICES
> Mental health home-based services programs are designed to provide intensive services to children and
> their families with multiple service needs who require access to an array of mental health services. The
> primary goals of these programs are to support families in meeting their child's developmental needs, to
> support and preserve families, to reunite families who have been separated, and to provide effective
> treatment and community supports to address risks that may increase the likelihood of a child being
> placed outside the home. Treatment is based on the child's needs, with the focus on the family unit.
> The service style must support a family-driven and youth-guided approach, emphasizing strength-based,
> culturally relevant interventions, parent/youth and professional teamwork, and connection with
> community resources and supports.

Specifically, Appellant fell in the age group between 7-17:

> 7.2.C. AGE SEVEN THROUGH SEVENTEEN [CHANGE MADE 10/1/15]
> Decisions regarding whether a child or adolescent has a serious emotional disturbance

> and is in need of home-based services is determined by using the following dimensions:
> the child has a diagnosable behavioral or emotional disorder, substantial functional
> impairment/limitation of major life activities, and duration of the condition. For children
> age seven to seventeen, the Child and Adolescent Functional Assessment Scale (CAFAS)
> is used to make discriminations within the functional impairment dimension. All of the
> dimensions, as well as family voice and choice, must be considered when determining if
> a child is eligible for home-based services.

Also applicable to the case here is the medical necessity criteria found in the MPM This Section states:

> 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.

Here, the CMH evidence submitted is consistent with the requirements laid out in law, and, policy. The assessment tool required by the MPM is the CAFAs. Appellant must

have a score of 80 or greater to be eligible for continued home-based services. Appellant does not. In addition, under the medical necessity criteria, Appellant no longer met this part of the program requirements. Thus, the CMH not only correctly closed but was required to close.
Appellant argued that the minor Appellant does not like change, and, that the family knows best. Appellant's arguments are irrelevant-they do not address the mandated federal and state criteria for eligibility. Appellant did not dispute the CAFAS score or address the criteria required in assessing eligibility.

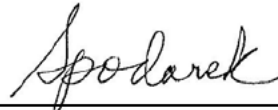
After a careful review of the credible and substantial evidence, this ALJ finds that the CMH correctly terminated the home-based services.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the CMH properly denied Appellant's request for services based on the evidence presented.

IT IS THEREFORE ORDERED that:

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



Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Health and Human Services

Date Mailed:

JS/hj

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.