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. 15-013668 MHP

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 a hearing.

After due notice, a telephone hearing was held on . Appellant appeared and testified on her own behalf. , Assistant General Counsel, represented the Respondent Medicaid Health Plan (MHP). , Medical Director, testified as a witness for the MHP.

ISSUE

Did the MHP properly deny Appellant's request for continued outpatient behavioral treatment?

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 Medicaid beneficiary enrolled in the Respondent MHP. (Testimony of Respondent's Medical Director).

2. Through the MHP, Appellant received twenty outpatient visits with a doctor for treatment of depression and anxiety in the first months of the year (Testimony of Appellant; Testimony of Respondent's Medical Director).

3. On the MHP received a request from Appellant's doctor submitted on Appellant's behalf and requesting additional outpatient visits, up to fifty more visits through the end of . (Exhibit A, page 9).

4. On [redacted], the MHP sent Appellant written notice that the request for continued outpatient behavioral treatment had been denied. (Exhibit A, pages 10-11).

5. Specifically, the notice provided that the request was denied because the MHP only covered twenty outpatient visits per year and Appellant had exhausted the benefit for that service for this year. (Exhibit A, page 10).

6. The notice of denial also directed Appellant to seek continued outpatient care through [redacted] and it identified a telephone number for that agency. (Exhibit A, page 10).

7. Appellant filed a local appeal, but her local appeal was denied for the same reason identified in the notice of denial. (Exhibit A, pages 14-15).

8. In the local appeal decision upholding the original denial, Appellant was again directed to contact her local Community Mental Health office if she was interested in seeking additional outpatient care. (Exhibit A, page 14).

9. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Exhibit A, pages 1-6).

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.

In 1997, the Department received approval from the Health Care Financing Administration, U.S. Department of Health and Human Services, allowing Michigan to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Medicaid Health Plans. The Respondent is one of those MHPs and, as provided in the Medicaid Provider Manual (MPM), is responsible for providing covered services pursuant to its contract with the Department:

> The Michigan Department of Community Health (MDCH) contracts with Medicaid Health Plans (MHPs), selected through a competitive bid process, to provide services to Medicaid beneficiaries. The selection process is described in a Request for Proposal (RFP) released by the Office of Purchasing, Michigan Department of Technology, Management & Budget. ***The MHP contract, referred to in this chapter as the Contract, specifies the beneficiaries***

> ***to be served, scope of the benefits, and contract provisions with which the MHP must comply.*** Nothing in this chapter should be construed as requiring MHPs to cover services that are not included in the Contract. A copy of the MHP contract is available on the MDCH website. (Refer to the Directory Appendix for website information.)
>
> ***MHPs must operate consistently with all applicable published Medicaid coverage and limitation policies.*** (Refer to the General Information for Providers and the Beneficiary Eligibility chapters of this manual for additional information.) Although MHPs must provide the full range of covered services listed below, MHPs may also choose to provide services over and above those specified. MHPs are allowed to develop prior authorization requirements and utilization management and review criteria that differ from Medicaid requirements. The following subsections describe covered services, excluded services, and prohibited services as set forth in the Contract.

MPM, July 1, 2015 version
Medicaid Health Plan Chapter, page 1
(Emphasis added by ALJ)

Moreover, with respect to mental health services and the division of responsibilities between MHPs and other entities, the MPM also states:

> **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.

In general, MHPs are responsible for outpatient mental health in the following situations:	**In general, PIHPs/CMHSPs are responsible for outpatient mental health in the following situations:**
▪ The beneficiary is experiencing or demonstrating mild or moderate psychiatric symptoms or signs of sufficient intensity to cause subjective distress or mildly disordered behavior, with minor or temporary functional limitations or impairments (self-care/daily living skills, social/interpersonal relations, educational/vocational role performance, etc.) and minimal clinical (self/other harm risk) instability. ▪ The beneficiary was formerly significantly or seriously mentally ill at some point in the past. Signs and symptoms of the former serious disorder have substantially moderated or remitted and prominent functional disabilities or impairments related to the condition have largely subsided (there has been no serious exacerbation of the condition within the last 12 months). The beneficiary currently needs ongoing routine medication	▪ The beneficiary is currently or has recently been (within the last 12 months) seriously mentally ill or seriously emotionally disturbed as indicated by diagnosis, intensity of current signs and symptoms, and substantial impairment in ability to perform daily living activities (or for minors, substantial interference in achievement or maintenance of developmentally appropriate social, behavioral, cognitive, communicative or adaptive skills). ▪ The beneficiary does not have a current or recent (within the last 12 months) serious condition but was formerly seriously impaired in the past. Clinically significant residual symptoms and impairments exist and the beneficiary requires specialized services and supports to address residual symptomatology and/or

management without further specialized services and supports.	functional impairments, promote recovery and/or prevent relapse. ▪ ***<u>The beneficiary has been treated by the MHP for mild/moderate symptomatology and temporary or limited functional impairments and has exhausted the 20-visit maximum for the calendar year. (Exhausting the 20-visit maximum is not necessary prior to referring complex cases to PIHP/CMHSP.)</u>*** The MHP's mental health consultant and the PIHP/CMHSP medical director concur that additional treatment through the PIHP/CMHSP is medically necessary and can reasonably be expected to achieve the intended purpose (i.e., improvement in the beneficiary's condition) of the additional treatment.

MPM, July 1, 2015 version
Mental Health/Substance Abuse Chapter, pages 3-4
(Emphasis added by ALJ)

Pursuant to the above policies, the MHP denied Appellant's request for continued outpatient behavioral treatment. Appellant has already had twenty outpatient visits in ████ and the applicable policy clearly states that PIHPs/CMHSPs are responsible for outpatient mental health after a beneficiary has been treated by the MHP for mild/moderate symptomatology and temporary or limited functional impairments and has exhausted the ██-visit maximum for the calendar year.

In response, Appellant testified and her doctor wrote that Appellant has good relationship with her current doctor through the MHP and that it would be in her best

interest to keep working with that doctor instead of having to see someone new through She testified and her doctor also wrote that it takes a long time for Appellant to trust people, but that she now trusts her current doctor and it would be disruptive to her treatment to switch.

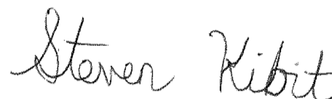
Appellant bears the burden of proving by a preponderance of the evidence that the MHP erred in denying her request for continued outpatient behavioral treatment and, in this case, Appellant cannot meet that burden. While the undersigned Administrative Law Judge appreciates the concerns expressed by Appellant and her doctor regarding a disruption in Appellant's treatment, the applicable policy is very clear in identifying a maximum of twenty outpatient visits per year through MHPs and assigning the responsibility for any further visits to the local PIHPs/CMHSPs. The MHP is bound to follow that policy and Appellant has already exhausted her maximum number of visits through the MHP this year. Accordingly, the MHP's decision must be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the MHP properly denied Appellant's request for continued outpatient behavioral treatment.

IT IS THEREFORE ORDERED that:

The Medicaid Health Plan's decision is **AFFIRMED.**



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

Date Signed:
Date Mailed:_

SK/db
cc:

*** NOTICE ***
The Michigan Administrative Hearing System 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.