



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR



Date Mailed: October 10, 2024
MOAHR Docket No.: 24-009764
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Corey Arendt

DECISION AND ORDER

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

After due notice, a telephone hearing was held on October 3, 2024. The Petitioner appeared and testified on his own behalf. Lydia Keith (Case Manager) appeared as a witness for Petitioner. George Motakis, State Fair Hearing Officer, appeared on behalf of the Respondent Lakeshore Regional Entity (Department). Kelsey Wright, Meghan McNeil, and Michelle Anguiano, appeared as witnesses on behalf of the Department.

ISSUE

Did Department properly decide to terminate Petitioner's Targeted Case Management (TCM) 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. As of June 2024, Petitioner was residing in the community and receiving TCM through the Department. (Exhibit A; Testimony.)
2. On or around June 25, 2024, Petitioner submitted an Individualized Plan of Service (IPOS). The IPOS indicated Petitioner had an objective to "[m]eet with Lydia every other week to talk things out".¹
3. On July 17, 2024, the Department sent Petitioner a Notice of Adverse Benefit Determination. The notice provided the following:

¹ Exhibit A.

You asked for twelve (12) months of Targeted Case Management. Your goals were to continue working on helping your mental health symptoms. You have a therapist, and you are taking medications as prescribed. Targeted Case Management is no longer medically necessary. This service will end on 11/1/2024. Your goals can be supported with a lower level of care. You can continue to receive therapy and medication management.²

4. On July 17, 2024, the Department received from Petitioner a local level appeal. (Exhibit B.)
5. On August 5, 2024, the Department sent Petitioner a Notice of Appeal Denial. The notice provided the following:

You have used targeted case management for many years. Now you have great options in your community to manage your mental health. You have your therapist and your doctor to help with your medications. You have some natural supports from your church to help you. Your targeted case manager should transition supports for you in the community over the next three months. They will help you learn who you can go to in the community to get help with the extra things you need. Your appeal has been denied because you mental health symptoms are stable enough to use supports in your community.³

6. On August 21, 2024, the Michigan Office of Administrative Hearings and Rules received Petitioner's request for hearing. (Exhibit F.)

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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,

² Exhibit A.

³ Exhibit D.

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.⁴

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.⁵

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...⁶

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) Medicaid Managed Specialty Services and Support program waiver in conjunction with a section 1915(c).

Here, as discussed above, Petitioner has been receiving Targeted Case Management (TCM) services through Department. With respect to such services, the applicable version of the Medicaid Provider Manual (MPM) provides in part:

⁴ 42 CFR 430.0.

⁵ 42 CFR 430.10.

⁶ 42 USC 1396n(b).

13 TARGETED CASE MANAGEMENT

Targeted case management is a covered service that assists beneficiaries to design and implement strategies for obtaining services and supports that are goal-oriented and individualized. Services include assessment, planning, linkage, advocacy, coordination and monitoring to assist beneficiaries in gaining access to needed health and dental services, financial assistance, housing, employment, education, social services, and other services and natural supports developed through the person-centered planning process. For children and youth, a family driven, youth guided planning process should be utilized. Targeted case management is provided in a responsive, coordinated, effective and efficient manner focusing on process and outcomes.

Targeted case management services must be available for all children with serious emotional disturbance, adults with serious mental illness, persons with a developmental disability, and those with co-occurring substance use disorders who have multiple service needs, have a high level of vulnerability, require access to a continuum of mental health services from the PIHP, and/or are unable to independently access and sustain involvement with needed services.⁷

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

⁷ MPM, Behavioral Health and Intellectual and Developmental Disability Supports and Services, April 1, 2024, p 105.

- 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.

2.5.B. DETERMINATION CRITERIA

The determination of a medically necessary support, service or treatment must be:

- Based on information provided by the beneficiary, beneficiary's family, and/or other individuals (e.g., friends, personal assistants/aides) who know the beneficiary;
- Based on clinical information from the beneficiary's primary care physician or health care professionals with relevant qualifications who have evaluated the beneficiary;
- For beneficiaries with mental illness or developmental disabilities, based on person-centered planning, and for beneficiaries with substance use disorders, individualized treatment planning;
- Made by appropriately trained mental health, developmental disabilities, or substance abuse professionals with sufficient clinical experience;
- Made within federal and state standards for timeliness;

- Sufficient in amount, scope and duration of the service(s) to reasonably achieve its/their purpose; and
- Documented in the individual plan of service.

2.5.C. SUPPORTS, SERVICES AND TREATMENT AUTHORIZED BY THE PIHP

Supports, services, and treatment authorized by the PIHP must be:

- Delivered in accordance with federal and state standards for timeliness in a location that is accessible to the beneficiary;
- Responsive to particular needs of multi-cultural populations and furnished in a culturally relevant manner;
- Responsive to the particular needs of beneficiaries with sensory or mobility impairments and provided with the necessary accommodations;
- Provided in the least restrictive, most integrated setting. Inpatient, licensed residential or other segregated settings shall be used only when less restrictive levels of treatment, service or support have been, for that beneficiary, unsuccessful or cannot be safely provided; and
- Delivered consistent with, where they exist, available research findings, health care practice guidelines, best practices and standards of practice issued by professionally recognized organizations or government agencies.

2.5.D. PIHP DECISIONS

Using criteria for medical necessity, a PIHP may:

- Deny services:
 - that are deemed ineffective for a given condition based upon professionally and

scientifically recognized and accepted standards of care;

- that are experimental or investigational in nature; or
- for which there exists another appropriate, efficacious, less-restrictive and cost-effective service, setting or support that otherwise satisfies the standards for medically-necessary services; and/or
- Employ various methods to determine amount, scope and duration of services, including prior authorization for certain services, concurrent utilization reviews, centralized assessment and referral, gate-keeping arrangements, protocols, and guidelines.

A PIHP may not deny services based **solely** on preset limits of the cost, amount, scope, and duration of services. Instead, determination of the need for services shall be conducted on an individualized basis.⁸

Here, as discussed above, Department decided to terminate Petitioner's Targeted Case Management (TCM) services pursuant to the above policies.

In support of the action, the Department presented documentation and testimony that reflected the Petitioner's goals could be supported at a lower level of care and that he will continue to receive therapy and medication management. The Department's evidence also indicated that the Petitioner has been stable, has not required psychiatric hospitalization since 2013, and that he currently denies suicidal and homicidal ideations. Moreover, Petitioner has not identified any risk factors related to abuse/violence, financial insecurities, or legal issues.

Petitioner indicated he continued to require the service and that without it, he wouldn't be able to continue to make all of his doctor appointments. Petitioner went on to indicate that he is stable because of the TCM, and that the services keep him busy and keep his mind stable.

Petitioner bears the burden of proving by a preponderance of the evidence that Department erred in terminating his TCM services. Moreover, the undersigned

⁸ MPM, Behavioral Health and Intellectual and Developmental Disability Supports and Services, April 1, 2024, pp 13-15.

Administrative Law Judge is limited to reviewing the Department's decision in light of the information it had at the time it made the decision.

Given the record and applicable policies in this case, the undersigned Administrative Law Judge finds that Petitioner has failed to meet his burden of proof; and that Department's decision must, therefore, be affirmed.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED that

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

CA/pe

Corey Arendt
Corey Arendt
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

Via Electronic Mail:

DHHS Department Contact

Belinda Hawks
MDHHS BPHASA
320 S. Walnut St., 5th Floor
Lansing, MI 48913
MDHHS-BHDDA-Hearing-Notices@michigan.gov
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DHHS Department Representative

George Motakis
Lakeshore Regional Entity
5000 Hakes Dr., Ste. 250
Norton Shores, MI 49441
Georgem@lsre.org

Via First Class Mail:

Petitioner

