

ISSUE

Did the Department properly transfer Petitioner from KPH to CFP?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was admitted to and is receiving treatment through KPH on a Continuing Order for Mental Health Treatment. (Exhibit A.)
2. KPH determined Petitioner required a higher level of care due to a high number of assaults. (Testimony.)
3. On April 1, 2025, Detroit Wayne Integrated Health Network (DWIHN), approved the transfer of Petitioner from KPH to CFP. (Exhibit A; Testimony.)
4. On April 3, 2025, Nick Norcross from the Department of Health and Human Services approved the transfer of Petitioner from KPH to CFP. (Exhibit A; Testimony.)
5. On April 14, 2025, Petitioner was informed of the transfer and provided his appeal rights. (Exhibit A; Testimony.)
6. On April 14, 2025, Petitioner was transferred from KPH to CFP. (Exhibit A; Testimony.)
7. On April 30, 2025, the Michigan Office of Administrative Hearings and Rules received from Petitioner, a request for hearing appealing the transfer. (Exhibit A.)

CONCLUSIONS OF LAW

The Michigan Mental Health Code provides, in pertinent part:

330.1407 Transfer of patient; notice; appeal.

A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer. The patient, a patient advocate designated to make mental health treatment decisions for the patient under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, if any, and the patient's guardian or nearest relative shall be notified at least 7 days prior to any transfer, except that a

transfer may be effected earlier if it is necessitated by an emergency. In addition, the patient may designate up to 2 other persons to receive the notice. If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer. If the patient, the patient advocate, or the patient's guardian or nearest relative objects to the transfer, the department shall provide an opportunity to appeal the transfer. MCL 330.1407

330.1536 Transfer of resident; notice; appeal.

(1) A resident in a center may be transferred to any other center, or to a hospital operated by the department, if the transfer would not be detrimental to the resident and the responsible community mental health services program approves the transfer.

(2) The resident and his or her nearest relative or guardian shall be notified at least 7 days prior to any transfer, except that a transfer may be effected earlier if necessitated by an emergency. In addition, the resident may designate 2 other persons to receive the notice. If the resident, his or her nearest relative, or guardian objects to the transfer, the department shall provide an opportunity to appeal the transfer.

(3) If a transfer is effected due to an emergency, the required notices shall be given as soon as possible, but not later than 24 hours after the transfer.¹

The Michigan Administrative Code provides, in pertinent part:

Rule 330.4011 Transfer between state hospitals.

(1) A patient may be transferred between hospitals, including the University of Michigan neuropsychiatric institute or other facilities of the department which are not hospitals, for administrative reasons or for good and sufficient clinical reasons when approved by the department. Approval by the department shall be expressed by an order of transfer, a copy of which shall be forwarded to the director of each hospital involved. Prior to approval or denial of the transfer, the department shall consult with the contractually responsible county community mental health program. A request for a transfer may be submitted by a hospital director, a patient, or other interested person.

(2) Before an approved transfer is acted upon, the director of the hospital in which the patient is currently residing shall notify in writing, not less than 7 days prior to transfer, the patient and his guardian or his nearest relative and up to 2 other persons designated by the patient, except if the transfer is necessitated by an emergency as determined by the hospital director and

¹ MCL 330.1536.

documented in hospital records. Under emergency circumstances, the hospital director shall effect a transfer as soon as necessary and issue the appropriate notices not more than 24 hours after transfer.

(3) The notification period of not more than 7 days prior to transfer may be reduced if the patient or his guardian or nearest relative approves the transfer in person, by telephone, or in writing, and this approval is documented. Written approval shall be obtained as soon as administratively possible.

(4) Notice of transfer by a hospital director shall inform the patient and his guardian or nearest relative of the right to object to the transfer. Upon receipt of a written objection, an appeal hearing shall be held promptly, under procedures established by the department. If an objection is made; transfer shall be delayed until a ruling of the appeal hearing indorses it, unless an emergency as determined and documented by the hospital director necessitates an immediate transfer. An emergency transfer is revocable by decision of the director of the department or by order of the appeal referee.²

The KPH witness testified that Petitioner was transferred from KPH to CFP following a determination that Petitioner required a higher level of care due to a high number of assaults. The witness went on to indicate that both DWIHN and the Michigan Department of Health and Human Services agreed with the transfer.

Petitioner testified that he wanted to remain at KPH; and that while he has been at CFP he has been staying out of trouble, taking his medication, not getting into fights, and generally doing well.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that his transfer from KPH to CFP was improper. As indicated above, the Michigan Mental Health Code permits the transfer of a patient from one inpatient facility to another for administrative reasons, if it would not be detrimental to the patient or if an emergency is presented. Here, Petitioner was transferred following a number of assaults. Consequently, based on the evidence, the Department's decision was proper and should be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Michigan Department of Health and Human Services properly transferred Petitioner from KPH to the CFP.

IT IS THEREFORE ORDERED THAT:

² MAC R 330.4011.

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