

(1)

March 9, 2020

Ellen Sinnott, Statement;
Mother and Guardian of Matthew Wierenga, age 39
313 Orchard Hill SE
Grand Rapids, Mi 49506

I am the mother and guardian of my son Matthew. He lived with me for 35 years and then moved to his Adult Foster Care Home, David's House Ministries. He is now 39.

Matthew has many care needs. He has autism and developmental delays. He is non-verbal and also is not able to communicate most of his needs non-verbally. He has poor coordination and many medical issues, along with serious eating and toileting issues.

Matt needs care giver help with bathing, eating, toileting, etc. and needs to be watched closely because of his autism and lack of communication and coordination.

In May Matt's yearly Plan of Service was submitted to Network 180 and I received a confusing notice from their Utilization Management department that his benefits would be reduced. **The Notice of Determination is attached and the parts I found confusing are highlighted in yellow.**

After Checking with Matt's Adult Foster Care Home, I found out that this meant a reduction of about \$40 per day or \$16,400 per year from what he had been receiving for the last 4 years.

I submitted a Local appeal which was quickly denied. I then requested a Michigan Fair Hearing and spent a month gathering test results, doctors letters, and personal statements to make a case to show that Matt's disabilities and needs have not reduced but, in fact, had increased with age. I hired a legal consultant to help me understand the system.

Matt's Supports Coordinator was helpful but also in the process of a July 1, 2019 transition from Spectrum Agency to working directly for Network 180.

On Oct. 27, I received the judge's letter of denial, stating that all this information was not available when the decision to cut Matt's care was made last May--so the original decision stands. In the **Decision and Order**, the judge stated that "Petitioner's additional documentation was admitted as Exhibits 1-19 as marked. As discussed, limited weight and relevancy is given to documentation that was not available at the time of the

contested action." (see attachment highlighted in yellow)

I was frustrated that the hearing was not about Matt's care but was only about whether the paper work was done correctly according to Network 180's point system.

My concerns are:

- Matthew is in a system that is supposed to be looking out for him but the focus appears to me, as a parent, to be finding ways to cut his supports and make the appeal system complicated and confusing.
- The new budget needs to provide adequate funding for Michigan's most vulnerable citizens. Without funding, group homes will be closing. Without proper pay for quality staffing, these homes can't be maintained. Hard to place clients will not find homes.
- I would like to see the new budget include greater oversight, accountability and enforcement of the contract and laws, etc. that are supposed to govern the PIHPS and the CMHSPS, especially in Kent County.
- Supports coordination and Utilization Management are now under the Network 180 umbrella. The Supports Coordinators write the plan to recommend services and then UM gets to decide which of those services are appropriate for the individual without ever meeting the individual or talking to the supports coordinator.

Thank you for your work and concern for some of Michigan's most vulnerable citizens.



Notice of Benefit Determination

DATE: 05/20/2019 NAME: MATTHEW WIERENGA

Birthdate: 07/22/1980

Case #: 040197

Provided Notice To:

ELLEN SINNOTT
313 Orchard Hill Se
Grand Rapids, MI 49506

Attached local appeal form

Notice has been provided

Notice Provided On

[] In Person [x] Via Mail

05/20/2019

This is to notify you that we have made the following decision(s) about the service(s) you have asked for or about the service(s) you receive. The legal basis for this decision is 42 CFR 440.230 (d); the Michigan Mental Health Code; Act 258 of the Public Acts of 1974 as amended; and/or the Medicaid Provider Manual. The action being taken is:

Action Taken

Table with 2 columns: Action Taken and Service(s) Affected. Includes checkboxes for Adequate Notice and Denial of service.

Reason For Action

- Reasons for action including: The service(s) are not clinically appropriate, Your Individual Plan of Service goals have been met, etc.

You are currently in an institution where we cannot authorize services (e.g. jail, prison, state hospital, extended care facility)

Your Medicaid Health Plan is responsible for providing services to you.

Please contact your Health Plan:

Phone Number:

You no longer have Medicaid coverage. If you believe you still need services, please contact:

to request general fund services. Please note that individuals who do not have Medicaid may be placed on a waiting list.

You have voluntarily requested termination of your services.

Other:

Recommended Services/Supports

Approved 14 PC Points and 69 CLS Units

Signatures

Electronically Signed By:
Alyssa Stone LMSW, QIDP

STAFF SIGNATURE / CREDENTIALS

05/20/2019

DATE



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

MATTHEW J WIERENGA
2355 BANNER SW
WYOMING, MI 49509

Date Mailed: October 25, 2019
MOAHR Docket No.: 19-006831
Agency No.: 88900780
Petitioner: Matthew J Wierenga

ADMINISTRATIVE LAW JUDGE: Colleen Lack

DECISION AND ORDER X

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 *et seq*; 42 CFR 438.400 *et seq*; and Mich Admin Code, R 792.11002.

After due notice, a hearing was held on September 4, 2019. Ellen Sinnott, Parent and Guardian, represented the Petitioner. Matthew Wierenga, the Petitioner, was present. Olivia Stegeman, Supports Coordinator; Stephen King, Home Manager; and Shane Metzger, Director of Operations, appeared as witnesses for Petitioner. Ann Braford, Resident and Family Advocate, was also present. Stacy Coleman-Ax, Fair Hearings Officer (FHO), represented the Respondent, Beacon Health Options on behalf of Network 180.

During the hearing proceeding, Respondent's Hearing Summary packet was admitted as Exhibit A, pp. 1-35, and Petitioner's additional documentation was admitted as Exhibits 1-19 as marked. As discussed, limited weight and relevancy is given to documentation that was not available at the time of the contested action.

ISSUE

Did Respondent properly reduce personal care in a specialized residential setting and Community Living Supports (CLS) for Petitioner?

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 is an adult Medicaid beneficiary. (Exhibit A, p. 26)

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"Decision and Order"
- page 13 & 14 included

initial determination and July 3, 2019, local appeal determination because it had not yet been completed.

The Home Manager testified about Petitioner's significant personal care needs. Staff is required to assist Petitioner with most things he does throughout the day. A day in Petitioner's life was thoroughly described. The Home Manager does not agree that the personal care points should have been reduced. (Home Manager Testimony)

The Director of Operations testified that they do not really get notice of a reduction or the reason for the reduction. What he sees is only the rates, with no explanation. They do not agree with reductions when they do not see a reduction in the daily care that is required for an individual. Petitioner needs a different type of attention from staff than the typical resident. Staff has to be very aware of Petitioner's needs and there is some guesswork. Staff has to be observant and predict what Petitioner needs are throughout the day. (Exhibit 19; Director of Operation Testimony)

Petitioner's mother described the history of Petitioner's condition and services. Petitioner's mother does not agree with the decrease in services for Petitioner. It was noted that the notices issued do not really describe the determination, such as what Petitioner does not need and what is being taken away from the requested services. Petitioner's mother also referenced a June 17, 2019, letter from Petitioner's doctor that was provided with the hearing request. (Exhibit 14; Mother Testimony) However, it is noted that the June 17, 2019, letter would not have been available to Respondent at the time of the May 20, 2019, initial determination because it did not exist at that time. Further, if the letter was not provided until the hearing request was filed, it would not have been available at the time of the July 3, 2019, local appeal determination.

Given the evidence and applicable policies, in this case, Petitioner has not met his burden of proof regarding the CMH's determination to reduce Petitioner's personal care points and CLS units. There is no dispute that Petitioner has substantial care needs. However, the documentation provided for review of the request for 17 personal care points and 80 units of CLS, which was developed from the development of the May 9, 2019, IPOS did not support that amount of services. Respondent must consider what services are already required to be provided by the AFC, and authorize the personal care and CLS only for needs above and beyond those the AFC is responsible for. As indicated by the FHO, many of the needs as described in the documentation from the May 9, 2019, IPOS are needs the AFC would be responsible to provide. Accordingly, Respondent's determination is upheld based on the information available at the time of the determinations. The more recent documentation would be considered in reviewing the ongoing supports and services for Petitioner.

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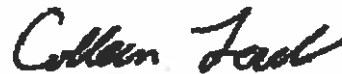
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Respondent properly reduced the personal care points and CLS units for Petitioner based on the information available at that time.

IT IS THEREFORE ORDERED that

The Department's decision is AFFIRMED.

CL/dh



Colleen Lack
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services