

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,468

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare limiting the amount of Medicaid coverage for psychiatric services to her for the period February 9 through August 7, 1996, and refusing to reimburse her for services she paid for out of pocket that were beyond the Department's imposed limitations. The issue is whether the petitioner's psychiatrist presented "compelling reasons" within the meaning of the pertinent regulations to extend services beyond those already granted by the Department during that period as an exception to its customary limitation of such services.

FINDINGS OF FACT

The petitioner has been under psychiatric care since December, 1993, for severe substance abuse problems, behavior maladjustment, and personality disorder. Under the Department's regulations (see infra), unless a specific exception is authorized, medicaid coverage for psychiatric services is generally limited to \$500 in a calendar year. On February 2, 1996, the petitioner's psychiatrist submitted a request to the Department's Medicaid access consultants (Healthpro) for Medicaid coverage for six months of psychiatric services to the petitioner at a frequency of one to two ninety-minute sessions per week. The Department (Healthpro) initially approved sixteen one-hour sessions over a six-month period. Following the psychiatrist's appeals the Department approved twenty-six one-hour sessions over six months, from February 9 through August 7, 1996. The psychiatrist appealed this determination on the petitioner's behalf as well. The Board received this appeal on July 24, 1996.

A hearing in the matter was held on September 10, 1996. By that time the period in question (February 9 through August 7) had elapsed. Although there was initially some confusion over the petitioner's coverage beyond August 7, the parties eventually stipulated (see attachment) that the issue in this case was limited to the recently-elapsed six-month period. The parties have further stipulated that the following attachments comprise a statement of the issue in this matter and the psychiatrist's justification for seeking a further extension of services beyond those that were approved.

At the hearing the psychiatrist testified that his reasons for seeking a further extension of services for the petitioner were as outlined in the letters to Healthpro attached below. Neither the petitioner nor her psychiatrist allege, however, that the petitioner's mental health suffered a serious setback between February and August, 1996, as a result of the Department effectively limiting her to one sixty-minute

psychiatric session per week during that period. The sum total of her claimed "damages" appears to be \$39 she is out of pocket for three weekly sessions that were not covered because three additional "crisis management" sessions had been deemed necessary during this time.

ORDER

The Department's decision is modified to include reimbursement to the petitioner for the amount she incurred (\$39) as a result of the "crisis management" sessions that were necessary beyond the once-a-week, hour-long sessions that the Department had already approved.

REASONS

The Medicaid regulation governing psychiatric services, MM § M611, is reproduced on the next page.

As can be seen from the attached stipulation, this case boils down to a contested reimbursement to the petitioner of \$39, which is the amount she paid for the three psychiatric sessions she had prior to August 7, 1996, that were in addition to the twenty-six one-hour sessions that had been approved by Medicaid for that six-month period. It is, thus, unnecessary to determine whether "compelling reasons" existed to grant the psychiatrist's original request for six months of ninety-minute sessions, one to two times per week. Albeit with the benefit of hindsight, and no doubt in large part due to the efforts of the petitioner and her psychiatrist during that time, it cannot now be found that the higher level of regular treatment rejected by the Department had an undue detrimental effect on the petitioner's mental health during this period.

Also with the benefit of hindsight, however, it can now be determined that the petitioner required at least three "crisis management" sessions beyond the once-a-week hourly sessions that the Department covered during this time. Indeed, the petitioner's need for extra sessions was anticipated by the psychiatrist in his letter of February 2, wherein he noted the need for "latitude" because of "the importance of flexibility in maintaining the therapeutic relationship: to meet and thereby modify her pattern of emergency and crisis as a way of life." The evidence is essentially uncontroverted that the three extra sessions were necessary for her to maintain the improvement in her mental condition and that no reasonable alternatives existed at the time.

Therefore, the Department's decision is modified to provide reimbursement to the petitioner for the costs she incurred in obtaining the three sessions that were left uncovered after the times she had to meet with her psychiatrist more than once a week over the period in question. See MM § M152.

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