

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,157  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department of Developmental and Mental Health Services and Rutland Mental Health denying him Medicaid coverage for inpatient hospital treatment related to his tapering or withdrawal from psychotropic drugs. The issue is whether inpatient hospitalization is medically necessary.

FINDINGS OF FACT

1. The petitioner is a musician who has been diagnosed with manic-depressive illness with symptoms that are primarily depressive. The petitioner does not agree that he has this specific illness but consented to treatment with psychotropic drugs some four years ago.

2. During the last year or so, the petitioner has indicated to his treating psychiatrist that he wants to discontinue the drugs. He feels that the drugs have made him

more lethargic, have stolen his personality and have stunted his creativity. His psychiatrist believes that it is in his best interests to take the drugs but has agreed to assist the petitioner with withdrawal, recognizing that it is his choice to cease taking medications. Pursuant to his obligation to fully inform patients of the risks and benefits of medication, the psychiatrist has advised the petitioner that cessation of the drugs could lead to a resumption of his prior symptoms including insomnia and severe depression with suicidal thoughts.

3. The petitioner has been taking four different drugs: Zyprexa to sleep, Serazone as an antidepressant, Neurotin as an antidepressant and Clonapine as a mood stabilizer. Under the supervision of his physician, he has tapered to low or very low doses of all these medications. The petitioner has been reluctant to completely eliminate all of the medication due to his fear of the results. He has even increased the dose of some of the medications after tapering off.

4. The petitioner has complained to his physician of neck spasms, light-headedness, sedation, sweating and dry mouth which he believes to be a result of his withdrawal from the medication. He is very fearful of withdrawing from the

medications in the environment of his apartment where he lives alone. He is aware that someone in the building died in relation to a drug problem. He is also aware that some celebrities have gone into rehabilitation centers to go off of psychotropic medications. He has asked his physician to admit him to a hospital setting or rehabilitation center in order to completely taper off the medication.

5. The petitioner's psychiatrist has refused to admit him to the hospital for a number of reasons. First and foremost, is the fact that three of the medications (Neurotin, Zyprexa and Serazone) have no known withdrawal syndrome. The fourth drug, Clonapine, may not be withdrawn abruptly but has no serious side-effects associated with gradual withdrawal. The psychiatrist's testimony was that it is never the normal course to hospitalize patients for withdrawal from these types of non-addictive drugs. The psychiatrist believes that the physical symptoms reported by the petitioner are the result of his anxiety and fears and also represent the return of some of his original symptoms. In his opinion, they are not side-effects of the ongoing gradual medication withdrawal course he is pursuing with the petitioner. He also believes that the petitioner may have exacerbated some of the symptoms through

the occasional recreational use of marijuana but added there is no life-threatening interaction between marijuana and the psychotropic drugs the petitioner takes.

6. The petitioner's psychiatrist has also considered other factors in determining whether the petitioner should be hospitalized. Although the petitioner has chronically expressed thoughts of death and despondency, he also has a fear of self-harm and has, in his psychiatrist's opinion, never formed a true intent to harm himself during the two years that he has treated him. He feels that the petitioner is not currently at imminent risk to his life from self-harm. He also believes that the petitioner is not a danger to others; that he is able to care of himself; that he has no complicating medical factors needing 24 hour medical supervision; that he is not in need of rapid evaluation; that he is not at significant risk of danger or deterioration from his medication tapering trial; and, that he can be managed at a lower level of care, although he is managing with difficulty in his current apartment.

7. With regard to the latter, the petitioner has been offered a week in a twenty-four hour per day crisis apartment as well as supervised long-term housing where there are staff members nearby and outreach services. In this way, the

psychiatrist believes that the petitioner can receive the "education, reassurance and comfort" that he needs to deal with his fears. His attempts to give the petitioner these things have, in his opinion, not gotten through because the petitioner will not or cannot listen to him.

8. The petitioner has rejected this supervised housing because it includes a ten o'clock curfew that interferes with his job as a musician. It is possible to get an outreach worker to check on the petitioner in his apartment if he agrees but so far he has not wanted to discuss it, preferring hospitalization.

9. The petitioner strongly disagrees with his psychiatrist's opinions. He asked for a referral for a second opinion and was given one to the psychiatric unit at Dartmouth-Hitchcock Hospital. According to the petitioner, the doctors there agreed with his physician that he did not need to be hospitalized. The petitioner was given a month-long opportunity to obtain another medical opinion but was unable to get one. As the treating psychiatrist's medical opinion testimony is uncontroverted in the evidence, it is accepted as fact in this matter.

ORDER

The decision of the Department and the Community Mental Health Center is affirmed.

REASONS

The Department of Developmental and Mental Health (DDMH) is charged by statute with supervising the operation of mental health units in the state and planning and coordinating the development of services for mentally ill persons in the community. 18 V.S.A. § 7401. Pursuant to this authority and that found in the Medicaid regulations at M721, the Department administers Medicaid funds for mentally ill persons in conjunction with community mental health centers such as Rutland Mental Health.

The Medicaid regulations require prior authorization for hospitalization for psychological disorders to determine if the service is "medically necessary". M500. DDMH has adopted procedures for determining when such care is necessary for clients in the community. See "Acute Care Management Program Description for Community Rehabilitation and Treatment (CRT) and Emergency Services", Adult Unit, Division of Mental Health, Department of Developmental and Mental Health

Services, Vermont Agency of Human Services, March 2000

(Revised October 2001).

Among those criteria are the following:

Criteria for Admission

1. Client must have a diagnosed or suspected mental illness which can be documented through the assignment of the appropriate DSM-IV codes.
2. Client is determined to be (one of the following):
  - a. A *danger to self*, as evidenced by direct threats or clear inference of serious harm to self, **or**
  - b. A *danger to others*, as evidenced by violent, unpredictable or uncontrolled behavior which represents potential serious harm to body or property of others, **or**
  - c. *Unable to care for self*, representing potential for imminent serious harm to self, **or**
  - d. *Unable to care for others in his/her care*, presenting a danger to dependents by either action or inaction, **or**
  - e. In need of 24 hour medical supervision for the treatment of a mental health disorder with *complicating medical factors*, but which are not the primary reason for admission, **or**
  - f. In need of *rapid evaluation* due to complex diagnostic factors in which there is significant risk of deterioration, **or**

- g. In need of *medication trials* which involve significant risk of danger or deterioration, **or**
- h. *Unable to be managed* at a lower level of care as evidenced by attempts to manage at this level or history of unmanageability at lower levels of care, **or**
- i. Appropriate for a lower level of care but *no less intensive alternative* is available.

Id. Attachment 1.

The credible and uncontroverted medical evidence in this case shows that the petitioner does not meet any of the criteria listed in paragraph 2 above. It must therefore be found that admission to the hospital is not medically necessary for the petitioner. As DDMH's decision is consistent with its regulations and those of the Medicaid program, its decision must be upheld by the Board. 3 V.S.A. § 3091(d). The petitioner is strongly encouraged to consider alternatives to hospitalization offered by the Community Mental Health Center including supervised housing as a method of alleviating his concerns about withdrawal of medication.

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