

**Department of Community Health
Medicaid Fair Hearing Decisions
Community Mental Health (CMH)
2007**

DOCKET NO.	DATE OF DECISION	HEARING OFFICER	DECISION
1. 2007-61 CMH	2-9-07	Goldstein	ALJ AFFIRMED the denial of Appellant's application for the Family Support Subsidy. <i>"Appellant's health impaired status does not satisfy the definition of an "eligible minor" who would otherwise be entitled to receipt of the Family Support Subsidy."</i>
2. 2007-62 CMH	2-9-07	Goldstein	Same as above, just different case #. Other important quotes: <ul style="list-style-type: none"> ▪ <i>"Appellant's mother claims that the Appellant is receiving an adoption support subsidy, not an adoption medical subsidy, that the two programs are entirely different. She argues that she is therefore not required to give up the adoption support subsidy in order to receive the Family Support Subsidy. While this may be in fact the case, the application she completed indicates the Appellant is receiving a "medical" subsidy through the Adoption Subsidy Program."</i> ▪ <i>"Thus, it would appear the Appellant's mother raises a valid point in claiming the statute only disqualifies recipients of the medical subsidy from also qualifying for the family support subsidy."</i>
3. 2007-325 CMH 2007-324 CMH	2-9-07	Gigliotti	ALJ AFFIRMED the authorization of community living supports and respite services for the Appellants. <i>"The CMH witness testified that the determination of medically necessary Medicaid covered services resulted in a determination of Appellants' need for community living supports services and respite services, but not respite services alone. This ALJ agrees...Respite services do not supplant or substitute for community living support."</i> ALSO – <i>"With regard to CMH enforcement of payment for respite and CLS services through a fiscal intermediary instead of directly to Appellant's parents, department policy explicitly prohibits the direct payments to a parent or guardian."</i>
4. 2007-342 CMH	1-23-07	Goldstein	ALJ AFFIRMED the denial of DBT and the approval of 2 of the 7 requested sessions of individual therapy and said that it is appropriate in accord with the contract and current Medicaid policy. (Appellant provided no evidence that they were diagnosed with Borderline Personality Disorder – just depression)
5. 2007-691 CMH	2-16-07	Goldstein	ALJ AFFIRMED termination of Appellant's Medicaid-funded mental health services. <i>"When an individual is authorized to receive Medicaid-funded mental health services, the individual is expected to act in good faith. The Appellant's failure to attend regularly</i>

			<i>scheduled appointments has resulted in the expenditure of Medicaid funds nonetheless, funds that could have been expended to service other clients who were unable to benefit from the service provided by the psychiatrist or staff members during the time pre-scheduled for the Appellant.”</i>
6. 2007-931 CMH	3-13-07	Gigliotti	ALJ AFFIRMED the Department’s decision to terminate Appellant’s Private Duty Nursing (PDN) services. <i>“The Appellant did not meet the burden of proving he met PDN criteria. The CMH provided sufficient evidence in this case to demonstrate that Appellant does not meet either medical criteria I and III or medical criteria II and III of the CMH eligibility criteria for PDN care.”</i>
7. 2007-938 CMH	3-1-0	Gigliotti	ALJ AFFIRMED CMH’s decision to reduce Appellant’s community living supports. <i>“The Appellant did not provide by a preponderance of evidence that she met Category II.”</i> The judge said that Appellant was properly categorized as a Category III.
8. 2007-941 CMH	4-3-07	Goldstein	ALJ AFFIRMED denial of services to Appellant. The question was whether the Appellant’s current status of mental or physical impairment manifested before age 22? The court said no – Appellant was not DD before 22.
9. 2007-1467 CMH	4-23-07	Goldstein	ALJ AFFIRMED the denial of respite care, as the father works and is only temporary relief and not a permanent solution. <i>“Although I understand and sympathize with, the concerns raised by the Appellant’s father, the underlying purpose of respite care is to provide <u>temporary relief</u> to the unpaid care giver. It is not designed to provide a permanent solution to problems resulting from varying work schedules, nor is it intended to provide a “babysitting” service to enable parents to work. It is therefore proper for _____ to deny an increase in respite services for this reason. I would note that community living supports may be utilized to assist the Appellant’s father in this regard.”</i> (emailed to ELB)
10. 2007-1481 CMH	4-18-07	Gigliotti	ALJ AFFIRMED the decision to authorize eight hours per day of CLS services to the Appellant.
11. 2007-1593 CMH	5-3-07	Goldstein	ALJ AFFIRMED denial of home based services for child. <i>“A review of the medical evidence presented supports a conclusion that the Appellant possesses symptoms of mental illness, but they are not severe enough, at least at the time of the Department’s decision, to warrant the provision of home-based services.”</i>
12. 2007-1608 CMH	5-8-07	Malewska	ALJ AFFIRMED the Department’s decision to terminate Appellant’s services. <i>“Because Appellant does not have a severe and persistent mental illness that substantially impairs her ability to function, she fails to meet eligibility requirements and therefore is not eligible for Medicaid services through CMH.”</i>
13.2007-1737 CMH	5-3-07	Goldstein	ALJ AFFIRMED the determination that Appellant requires 20 days per year in Respite Services. (emailed to ELB)
14. 2007-2119 CMH	5-7-07	Gigliotti	ALJ AFFIRMED denial of waiver services, and minor was placed in ICF/MR – very sad decision. <i>“The preponderance of the evidence in this case supports the CMH position that placement of Appellant in an independent community setting is <u>unsuccessful and cannot be safely provided</u>. (Appellant was being highly violent</i>

