

17. CMH/Provider Contract Development

AG Opinion 6356 - Eligibility of Person Located Within County for CMH Services

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

Opinion No. 6356

April 24, 1986

MENTAL HEALTH:

Eligibility of person located within county for community mental health services

Community mental health services may not be denied a person located within the geographical limits of a county on the basis of residence of the person.

Honorable Burton Leland

State Representative

The Capitol

Lansing, MI 48909

You have asked my opinion on the following question:

May a person be denied community mental health services simply because the person resides in a licensed facility in a county which is other than the person's original county of residence?

The example you provide indicates:

'An emotionally disturbed person who originally resided in W County prior to admission to a state hospital, is then subsequently placed in a residential facility in L County. In most instances L County Community Mental Health, or any other county under similar circumstances, would most likely deny the resident access to community mental health programs unless W County, the original county of residence, was willing to pay the 10 percent funding match.'

MCL 330.1206; MSA 14.800(206), provides in pertinent part:

'The purpose of a county community mental health program shall be to provide a range of mental health services for persons who are located within that county.'

MCL 330.1244(D); MSA 14.800(244)(d), provides in part:

'A person shall not be denied a county program service because of an inability to pay for the service on the part of those who are financially liable.'

From a reading of the above provisions, it is apparent that a person may not be denied access to community mental health services in the example that you have provided. It should be noted that provision of services, and therefore access, is predicated upon the person's 'location within that county,' rather than the county of residence and any matching payment to be made by such county.

Also, your attention is directed to the provisions of MCL 330.1306; MSA 14.800(306), and MCL 330.1308; MSA 14.800(308).

MCL 330.1306; MSA 14.800(306) provides:

'For the purpose of section 302, the individual's county of residence shall be determined as follows:

'(a) If the individual is receiving a service that includes nighttime sleeping accommodations, the county of residence shall be that county in which the individual maintained his primary place of residence at the time the entered the department facility.

'(b) If the individual is receiving a service that does not include nighttime sleeping accommodations, the county of residence shall be that county in which the individual maintains his primary place of residence.'

MCL 330.1308; MSA 14.800(308) provides:

'(1) Except as is otherwise provided in this chapter and subsection (2), and subject to the constraint of funds actually appropriated by the state legislature for such purpose, the state shall pay 90% of the annual net cost of a county community mental health program that is established and administered in accordance with chapter 2.

'(2) The state shall pay the family support subsidies established under section 156.'

From these provisions, it is clear that when the Legislature intended the county of residence to be a controlling circumstance in connection with the provision of mental health services, it said so plainly, and also defined 'residence' for that particular purpose. Thus, a reading together of MCL 330.1206; MSA 14.800(206), MCL 330.1306; MSA 14.800(306), and MCL 330.1308; MSA 14.800(308), makes it clear that when the Legislature said 'persons who are located within that county' it meant persons located within the geographic boundaries of the county, without reference to the issue of residence of the persons. This reinforces the conclusion that the Legislature intended the county community mental health program where the individual needing services is located to be responsible for providing the services.

It should be noted, also, that under the provisions of MCL 330.1308; MSA 14.800(308), the state pays 90% of the annual net cost of a county community mental health program that is established and administered in accordance with law.

It is my opinion, therefore, that county responsibility to provide access to community mental health services is based on 'location' of the person relative to the service and not on 'payment' for the service from whatever source.

Frank J. Kelley

Attorney General