



**Mental Health Association  
in Michigan**

## **LETTER FROM LANSING**

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### **Court Prevents Kentucky Medicaid Work Requirement from Starting**

A federal court has prevented Kentucky from starting its federally approved Medicaid work requirement waiver.

The court did not say a Medicaid work requirement is legal or illegal under Medicaid law. Rather, it said health care is an integral purpose of the Medicaid mission, and the federal Centers for Medicare & Medicaid Services (CMS) did not adequately assess what the impacts of Kentucky's work requirements would be on beneficiaries' health care.

Kentucky's Governor immediately announced cuts to Medicaid services in the state, claiming they couldn't be fully sustained in light of the court ruling. CMS then announced it was starting over with a new public comment period on the Kentucky proposal, signaling apparent intent to re-assess the impact of a Kentucky waiver on enrollees' health care coverage. If this is followed through, CMS and the State of Kentucky would presumably submit a new analysis to the court. Would a "better" analysis allow the work requirements to start? That is unknown.

Kentucky was the first state to get a Medicaid work requirement waiver. It was going to be the first to start, but that dubious distinction now goes to Arkansas. According to several media reports, the first few weeks of that program have yielded few Medicaid beneficiaries meeting the new work requirements so far. As we have noted in previous issues, Michigan has enacted a law to seek federal approval of a Medicaid work requirement for some beneficiaries here.

### **A Tale of Two Cities**

Two mental health facilities have been negatively in the news. One is the Livonia crisis walk-in clinic (COPE) operated by Hegira Inc., under contract with Detroit-Wayne Community Mental Health Authority. The other is the Harbor Oaks psychiatric hospital in New Baltimore (Macomb County), licensed by the State of Michigan. We have been very vocal about problems at the latter, while publicly quiet about what transpired at the former.

Why? The answer lies in two of the keys precepts that mental health programs should operate under – transparency and accountability.

At COPE, several staff members have been legally charged with physically assaulting program consumers, and some staff have also been charged with failure to report what happened. The

situation is inexcusable. And to their credit, Hegira executives have not tried to make excuses. When this first broke several months ago, Hegira reached out to elements of the mental health community, including us and NAMI-Michigan, admitting what had happened, taking responsibility for it, proposing remedial steps, firing several staffers, and asking for help in assuring no similar incident happens again. Further, Detroit-Wayne CMHA immediately became involved and began working with Hegira to determine if COPE was going to continue under contract. Detroit-Wayne CMHA required a corrective plan of action, which was accepted, and made clear it expected Hegira to do everything in its power to prevent a repeat of what happened.

Contrast that situation with Harbor Oaks, which has been under investigation by Channel 7 News (Detroit) for over a year. The investigation has uncovered numerous allegations of consumers being assaulted (sexually and otherwise), staff experiencing injuries, consumers dying after possibly premature discharge, and precipitous rise in the severity of recipient rights complaints. To our knowledge, Harbor Oaks has not reached out to anyone in the mental health arena to say they have problems and want to repair them. Nor has the State of Michigan, which licenses the hospital, expressed much concern.

As a result of Channel 7's reporting, we have seen police reports, summative recipient rights data, certain clinical records, a whistleblower lawsuit, and an Occupational Safety & Health Administration report finding the hospital failed to protect adequately against worker injuries (albeit with a minuscule fine attached). Because of this information, several advocacy groups wrote a number of state departments in December 2017, expressing concern and suggesting Harbor Oaks required formal independent investigation.

A follow-up meeting was held February 2018. Six advocacy groups met with representatives of the Governor's and Lt. Governor's offices, as well as staff from the departments of Licensing and Regulatory Affairs (LARA), Health and Human Services, Civil Rights, and the State Police.

The meeting went over like a lead balloon with the state officials, who couldn't have been clearer they wanted no involvement with this. The advocates were told that the state had received no complaints about Harbor Oaks from aggrieved parties; that Harbor Oaks has at times been visited by the state and would be again; that we should be paying more attention to a new state report trying to improve psychiatric hospital bed availability; and that media reports can be sensationalistic and lacking in credibility.

Subsequently, LARA has claimed it received for the first time a direct complaint against Harbor Oaks and visited the facility in May '18, finding no wrongdoing vis-à-vis the complaint.

Yet at the same time (and subsequently), there were allegations of three new Harbor Oaks problems: a sexual assault (which Channel 7 says will be prosecuted), a physical assault by one consumer against two other consumers (also being prosecuted per Channel 7), and the discovery of post-release bruises and marks on the body of a consumer (for which we are not aware of a police report filing).

To see Channel 7's latest story, go to:

<https://www.wxyz.com/news/local-news/investigations/3-more-abuse-claims-lead-to-charges-at-harbor-oaks-hospital>

Where there's smoke, there's usually fire. A ton of smoke is coming out of Harbor Oaks, and it's not signifying the election of a new Pope. It's signifying possible danger for consumers and others. Yet Harbor Oaks is quiet, and Michigan government can't or won't try to do anything about it. Does that sound hauntingly familiar?

A tale of two cities: One (populated by Hegira and Detroit-Wayne CMHA) admitting what happened, taking responsibility for it, acting upon it, and trying to correct the situation. And the other (populated by Harbor Oaks and the State of Michigan) admitting nothing, taking responsibility for nothing, and turning a blind eye to remedial action. Which city would you prefer to live in?

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