

**Disability
Rights**
Michigan

Michelle Roberts, Executive Director

Fax Transmission

DATE: September 21, 2020

TO: Centra Wellness Network
Attn: Joseph L. Johnston, Executive Director

FAX #: (231) 723-1504

FROM: John Schwend, Staff Attorney

SUBJECT: *Request for Records*

PAGES: 4, including fax cover sheet

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Main Office:
4095 Legacy Parkway
Lansing, MI 48911-4263
517.487.1755 (Voice or TTY)
800.288.5923 (Toll Free)
517.487.0827 (Fax)

Marquette Office:
129 W. Baraga Ave., Suite A
Marquette, MI 49855-4644
906.228.5910
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906.228.9148 (Fax)

www.drmich.org



September 21, 2020

Sent Via Facsimile To: (231) 723-1504

Centra Wellness Network
Attn: Joseph L. Johnston, Executive Director
310 North Glocheski Drive
Manistee, MI 49660

RE: Access Request for documentation related to Centra Wellness Network's COVID-19 service suspension, reduction, or termination

Dear Mr. Johnston:

Disability Rights Michigan (DRM) is the agency designated by the State of Michigan, pursuant to state and federal laws, to protect and advocate for the rights of individuals with disabilities.

Among its responsibilities, DRM investigates situations in which an individual with a mental illness, developmental disability, or other disability has been or may have been subjected to abuse and/or neglect. DRM operates pursuant to the following federal mandates that grant a special right of access to records.

- Developmental Disability Assistance and Bill of Rights Act, 42 USC 15043;
- Protection and Advocacy for Individual Rights Act, 29 USC 794e; and
- Protection and Advocacy for Individuals with Mental Illness Act, 42 USC 10801.

It has been generally reported that medically necessary community-based services have been suspended or reduced throughout the State of Michigan in response to the COVID-19 pandemic. DRM has reason to believe that individuals with disabilities

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served by the Centra Wellness Network had medically necessary community-based services suspended, reduced, or terminated inappropriately, which subjected those individuals to abuse and/or neglect and places them in serious and immediate jeopardy. On March 19, 2020, Centra Wellness Network published a press release explaining the adjustments that it made in its delivery of services. The press release indicated that Centra Wellness Network was suspending routine face-to-face appointments and would be contacting clients by phone. Furthermore, the press release included a list of services that would remain active: assertive community team, case management for adult and children, home based program, outpatient therapy, crisis services 24/7, jail services, and all management and operational programs. MDHHS emphasized the need to continue providing all medically necessary behavioral and mental health services during the COVID-19 pandemic. *See* BHDDA Communication #20-01, 20-02, and 20-03. During an emergency, Centra Wellness Network is also prohibited from imposing more restrictive "eligibility standards, methodologies, or procedures" and guarantees "an individual who is enrolled in benefits . . . shall be treated as eligible for such benefit through the end of the month in which such emergency period ends . . ." *See* Section 6008(b) of the Families First Coronavirus Response Act. The Federal Government declared a national emergency as a result of the COVID-19 pandemic in March 2020, which continues to this day. DRM believes that any suspension, reduction, or termination of services violates both MDHHS' guidance and federal law, amounts to abuse and neglect, and places affected individuals at serious and immediate jeopardy.

In light of this, I request that you forward to me the following documentation:

- Documentation on the number of consumers who receive services and have had their services suspended, reduced, or terminated in response to the COVID-19 pandemic;
- For each consumer affected, documentation of the type of service and number of service hours that were suspended, reduced, or terminated in response to the COVID-19 pandemic; and
- Any individualized notice communicating the suspension, reduction, or termination to any Medicaid beneficiary served by Centra Wellness Network.

No releases of information accompany this request. DRM is unaware of the whereabouts of these individuals and whether they have a guardian. Because the services subject to the suspension have been determined to be medically necessary to the individuals affected, DRM has determined there is probable cause to believe that the health and safety of these individuals is in serious and immediate jeopardy

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and no consent from another party is needed.¹ The inability to access these individuals triggers DRM's access authority.²

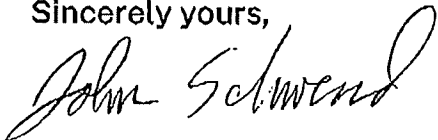
DRM has access to information beyond that which individuals could receive themselves, including personnel records, quality assurance records, and peer review records.³ DRM is entitled to all records pertaining to the allegations, in whatever form, including video, audio, draft, or final.⁴

Please respond to this request within 7 days of the date of this letter. If you do not provide the records within 7 days of this letter, a written statement of the reasons for the denial or delay must be provided within 8 days of the date of this letter. In the case of a denial for alleged lack of authorization: the name, address and telephone number of the individual with a disability, their legal guardian/conservator, or other legal representative must be included in the response.⁵ Failure to respond to this request will result in a referral to our legal department for follow-up. You may send a scanned copy of the documents to me by email at jschwend@drmich.org; by facsimile at (517) 487-0827 (50 pg. limit); or by U.S. First Class Mail to:

Disability Rights Michigan
ATTN: John Schwend
4095 Legacy Parkway
Lansing, MI 48911-4263

If you have any questions, please contact me at 1-800-288-5923. Thank you for your assistance in this matter.

Sincerely yours,



John Schwend
Staff Attorney

JS/sep

¹ 42 CFR 1326.25(a)(4)

² 45 CFR 1326.25(a)(2); 42 CFR 51.41(b)(2)

³ 42 USC 10806(b)(3); 42 USC 15043(c); 42 CFR 51.41(c); 45 CFR 1326.25(b); see *Pennsylvania Prot and Advocacy, Inc v Houstoun*, 228 F3d 423 (3d Cir 2000); *Michigan Prot & Advocacy Serv, Inc v Dazzo*, Case No 2:11-cv-14503, Stip. DKT # 14 at 1 (ED Mich Jan 6, 2012)

⁴ 42 CFR 51.41(c); 45 CFR 1326.25(b)

⁵ 45 CFR 1326.26; 42 CFR 51.43