

County of Financial Responsibility (COFR) Dispute Resolution Committee - Case 2018-1

Committee:	Doug Ward	Community Mental Health for Central Michigan
	Heather Garcia	Kalamazoo CMH and Substance Abuse Services
	Kendra Binkley	Michigan Department of Health and Human Services
	Wil Morris	Sanilac Community Mental Health
	Cindy Ingersoll	Newago County Mental Health
	Matt Owens	Oakland County Health Network

The Committee met on August 13, 2018 concerning a dispute between two adjoining county CMHSP's. CMHSP representatives from the two counties participated to explain the case and the rationale for each CMHSP's position.

Issue: This case dealt with a consumer who turned 18 on July 23, 2018. The consumer's parents had joint legal custody and his mother had physical custody per the divorce decree. He had been living with both his mother in County A (2 days a week) and his father in County B (2 or 3 days a week). His mother arranged respite care for the remaining days. The consumer had been attending school in County B.

Services were provided to the consumer by County B CMHSP in 2015-16 when he lived in County B. After their move to County A, services were again provided by County B CMHSP beginning in December, 2017. These services were the subject of this COFR dispute with two issues – prior to his 18th birthday in July and now as an adult.

County B said that the mother, who now lived in County A, had full physical custody of the consumer. The COFR Amendment states that "...in the case of divorced parents, the COFR is the county in which the parent with legal and physical custody resides." Therefore, County A would be the COFR before July 23, 2018 because only the mother had physical custody per the divorce decree. They also stated that a guardianship petition submitted by the mother in June, 2018 in County A said that the consumer was a resident of County A. On this basis, County A should remain the COFR after July 23, 2018.

County A asserted that, the divorce decree notwithstanding, the consumer has been and continued to be living more with the father in County B than with the mother in County A and was attending school in County B. This meant that this should be treated as joint physical custody. As a result, the COFR states "...if the parents have joint legal and physical custody, the COFR is the county of residence of the parent with whom the child lives while attending school." On that basis, County B should be the COFR prior to July 23, 2018. County A also asserted that because the consumer was living more days with the father than with the mother, County B was his residence and the COFR after July 23, 2018 should also be County B.

Resolution:

Prior to July 23, 2018: The mother was awarded physical custody of the consumer in the divorce decree. The parents worked out a shared arrangement to facilitate his schooling. However, they have not chosen to change the terms of the decree. His mother controlled more than half of his residence time between living with her and respite. The Amendment states that "...in the case of divorced parents, the COFR is the county in which the parent with legal and physical custody resides." Therefore, County A is the COFR.

Since July 23, 2018: The consumer was now an adult and not in a dependent living arrangement. The Amendment says that a child who reaches age 18 ‘...and establishes an independent residence shall be considered a resident of the county where he or she resides.’ The General Rule says that the COFR should be ‘...the one that served them in the county where they last lived independently.’ And ‘Consumers have the right to choose where they live....’ Currently, he was splitting his time between the two counties. Prior to July 23, he lived as a child in County A as determined above. The guardianship petition and Medicaid records indicated that he was a resident of County A. On this basis, County A is the COFR. As with any adult living independently, this conclusion would change if he moved and/or his residence were firmly established in another county.