

**DISTRICT OF COLUMBIA
OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION**

Student Hearing Office
810 First Street, N.E., Second Floor
Washington, DC 20002

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| Petitioner, | Date Issued: November 14, 2010 |
| v | Hearing Officer: Kimm Massey, Esq. |
| DISTRICT OF COLUMBIA PUBLIC SCHOOLS, | Case No: |
| Respondent. | Hearing Dates: November 3 and 4, 2010 Room: 2004 |

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HEARING OFFICER DETERMINATION

BACKGROUND

Student is an _____ year-old male, who began attending a full-time private education school after he was released from a residential placement in early 2010. However, his full-time private placement closed at the end of school year (“SY”) 2010/11. Student’s current IEP lists Emotional Disturbance (“ED”) as his disability and requires him to receive 25.5 hours per week of specialized instruction and 1 hour per week of psychological services.

On September 7, 2010, Petitioner filed a Complaint against Respondent DCPS, alleging that DCPS (1) failed to adequately evaluate by failing to conduct a vocational assessment and a functional behavior assessment (“FBA”), (2) failed to develop an appropriate IEP by failing to develop an appropriate transition plan and a behavior intervention plan (“BIP”), and failing to place related services directly on the IEP, and (3) failed to provide an appropriate placement. Petitioner also asserted a claim for compensatory education.

On September 20, 2010, DCPS filed its Response to the Complaint, asserting therein, *inter alia*, that (1) an FBA and BIP were conducted/developed for Student on June 23, 2009 but DCPS could not confirm or deny whether a vocational assessment was conducted; (2) the existing transition plan is appropriate, the IEP lists Student’s necessary related services, and the “wraparound services” desired by Petitioner are not defined under IDEIA; and (3) in accordance

with Student's desire to attend a public his school, DCPS had offered him a placement at a named high school.

On September 22, 2010, Petitioner filed a Motion for a "Stay Put" Order, seeking an Order requiring DCPS to resume funding 25 hours per week of wraparound services for Student. On October 1, 2010, the hearing officer issued an Order Denying Petitioner's Motion for "Stay Put" Order, on the ground that Petitioner had failed to demonstrate that the wraparound services were a part of Student's current educational program.

On October 7, 2010, the hearing officer convened a prehearing conference and led the parties through a discussion of the issues, defenses, relief sought, and related matters. Petitioner withdrew its claim concerning the vocational assessment because DCPS had provided Student with an IEE letter for that evaluation on October 7, 2010. Petitioner also represented that the parties were working together to find an appropriate DCPS public school placement for Student and would hopefully resolve this issue by the time of the due process hearing. Petitioner continued to assert its claim for the 25 hours per week of wraparound services, and it was agreed that Petitioner would file a continuance request so that the due process hearings could be postponed to November 3 and 4 in light of the unavailability of Petitioner's key witness. The hearing officer issued the Prehearing Order on October 12, 2010.

The hearing officer issued a Revised Prehearing Order on October 14, 2010, on the basis of DCPS counsel's representation subsequent to the prehearing conference that DCPS had objected to the continuance required to postpone the hearings. The hearing officer's notes did not reflect such an objection, but the hearing officer issued the revised Order on the basis of counsel's representation.

On October 12, 2010, Petitioner filed a Motion for Continuance, which indicated that DCPS did not object to the continuance. The hearing officer advised DCPS counsel that the hearing officer's prehearing conference notes did not reflect an objection by DCPS to the continuance to November 3 and 4, but if DCPS had indeed made such an objection, it would need to file a written opposition to Petitioner's continuance motion to preserve the objection. Upon DCPS counsel's representation that DCPS would file a written opposition, the hearing officer instructed Petitioner to file a Revised Motion for Continuance reflecting DCPS's objection. Petitioner's counsel indicated her belief that DCPS did not object to the continuance to November 3 and 4. Nevertheless, Petitioner filed the revised motion on October 18, 2010. When DCPS failed to follow through by filing a written opposition, the hearing officer issued an Interim Order on Continuance Motion, which granted the requested continuance and indicated that the continuance request was unopposed.

By disclosure letters dated October 27, 2010, Petitioner disclosed eighteen documents (Petitioner's Exhibits 1 - 18), and DCPS disclosed seventeen documents (DCPS-1 through DCPS-17).

The hearing officer convened the initial due process hearing on November 3, 2010.¹ DCPS's disclosed documents were admitted into the record without objection. Petitioner's documents

¹ Counsel for each party and the witnesses for each party are listed in the Appendix that accompanies this decision.

numbered 1 through 14 and 18 were admitted without objection, documents numbered 15 and 16 were admitted over DCPS's objection, and the document number 17 was conditionally excluded until Petitioner's key witness authenticated it. As an initial matter, Petitioner withdrew from consideration its claim that DCPS had failed to provide Student with an appropriate transition plan. Moreover, during the course of the hearing, DCPS agreed to place Student at the DCPS public high school of his choice and Petitioner withdrew its claim of an inappropriate placement, leaving only the wraparound services claim to be resolved, and the parties agreed to participate in an IEP meeting for Student on November 18, 2010 at 1:00 p.m. at a mutually agreeable location to be subsequently determined. After the hearing officer received opening statements and Petitioner presented all of its witness testimony and rested its case. Unfortunately, the majority of the testimony provided by one of Petitioner's witnesses via telephone had to be stricken from the record because Petitioner's counsel failed to provide the witness with copies of all disclosures, which prohibited DCPS from exercising its right to fully cross-examine this witness.² DCPS presented the testimony of two witnesses but indicated that its third and final witness would not be available until the following day. As a result, the hearing officer adjourned the hearing until the next day.

On November 4, 2010, the hearing officer reconvened the hearing and received the testimony of DCPS's final witness, as well as the parties' closing statements. Thereafter, the hearing officer concluded the hearing.

The due process hearing was convened and this Hearing Officer Determination is written pursuant to the Individuals with Disabilities Education Improvement Act ("IDEIA"), 20 U.S.C. §§ 1400 et seq., the implementing regulations for IDEIA, 34 C.F.R. Part 300, and Title V, Chapter 30, of the District of Columbia Municipal Regulations ("D.C.M.R.").

ISSUES

The issue to be determined is as follows:

- I. Did DCPS deny Student a FAPE by failing to include wraparound services directly on his IEP and/or failing to continue funding wraparound services for Student in or about June 2010?

FINDINGS OF FACT

After considering all the evidence, as well as the arguments of both counsel, this Hearing Officer's Findings of Fact are as follows:

1. On September 16, 2009, Student received a comprehensive psychological evaluation as part of his step-down process to a less restrictive environment than the residential facility

² See 34 C.F.R. § 300.512(a)(2) (party to a hearing has right to, *inter alia*, confront and cross-examine witnesses); Appropriate Standard Practices, Rule 9D (counsel required to provide witnesses who testify by telephone with copies of all disclosures in advance of testimony).

where had been residing. The background information in the evaluation reveals that Student was diagnosed with Attention Deficit Hyperactivity Disorder (“ADHD”) in 2002 and has a history of cannabis use and involvement with the juvenile justice system, as well as a history significant for non-compliance, violence and aggression. Student also has a history of a prior psychiatric hospitalization and at least two suicide attempts.

On the Wechsler Adult Intelligence Scale-3rd Edition, Student received a Full-Scale IQ score of 89, which was at the upper end of the Low Average range. On the Wechsler Individual Achievement Test-2nd Edition, Student scored in the Borderline range (74) in overall reading skills, and in the Low Average range (86) in overall mathematics skills. Social emotional testing resulted in an elevated score on the depression scale that was indicative of symptoms of depression. The diagnostic impressions listed by the evaluator included, *inter alia*, the following: Depressive Disorder NOS, R/O Bipolar Disorder; History of ADHD, Combined Type; History of Cannabis Abuse; Reading Disorder; Math Disorder; and Written Language Disorder.³

2. On November 10, 2009, an MDT meeting was convened for Student to discuss an emergency discharge from his residential placement, as well as his need for a special education therapeutic day treatment step down placement. The attendees at the meeting were Student; Parent; a DYRS representative; a clinical consultant, who is a consultant to the residential placement Student attended, a consultant to the current private wraparound services provider to Student, and Petitioner’s key expert witness in this case (hereinafter referred to as the “special education consultant”); Student’s special education teacher; Student’s therapist; and the DCPS/LEA representative, who participated in the meeting by telephone.

The Meeting Notes indicate the following: “The MDT members agreed to initiate wraparound services. However, [Student’s therapist] indicated that she was unsure that [Student] would be receptive. [The educational consultant] stated that wraparound services are driven by the IEP. She continued to state that services are there to assist students in appropriately accessing specialized instruction in school, the home environment, and in their communities.” The Notes also reference a letter, in which Student’s treating psychiatrist recommended wraparound services in the amount of 5 hours per day, 5 days per week for Student and his family. The Notes further indicate that prior to the conclusion of the meeting, the special education consultant telephoned the DCPS/LEA representative and briefed the DCPS/LEA representative on the discussions and recommendations. The DCPS/LEA representative asked for and received confirmation from the remaining team members. Finally, the Notes indicate, in part, as follows: “All MDT members agreed with the need for . . . intensive wraparound services . . . all services to commence immediately upon discharge. . . . MDT members agreed that [the educational consultant] should follow the case for six months to insure that services are monitored and appropriately delivered . . . The six month period would also yield data as to the appropriateness of services currently recommended.”⁴

3. The IEP developed for Student on November 10, 2010 indicates that he is to receive 25.5 hours per week of specialized instruction and 1 hour per week of psychological services.

³ Petitioner’s Exhibit 3; DCPS-1.

⁴ Petitioner’s Exhibit 4.

Although the IEP also lists 1 hour per week of speech and language services for Student, handwritten notes by the special education consultant indicate that Student no longer needs those services. The IEP further indicates that Student is to receive the following supplementary aids and services: calculator, computer availability, extended time, small group instruction, repeated oral and written instruction, and read directions. The IEP does not include any reference to the provision of wraparound services to Student.⁵

4. The Program Manager from DCPS's preferred wraparound services provider has seen wraparound services on only a few IEPs. Most of the time, she sees wraparound services in the Meeting Notes reflecting a discussion the student's MDT had.⁶
5. The special education consultant developed a 2-page written wraparound services plan for Student, which contains the following elements: (i) Parental Counseling/Training, which includes counselor-led weekly family meetings designed to examine family values, habits, attitudes and conditions, and quarterly parent retreats with [Student's current private wraparound services provider (although Student was not yet receiving the services from any provider)]; (ii) Transition/Transportation, which requires Student to receive transitional support to and from all school related activities on an as-needed basis, as well as transition support to help Student and his family get to any and all appointments related to school requirements and school-related activities; (iii) Therapeutic Recreation, which permits Student to enroll in community based therapeutic activities and exposure to the arts, such as, *inter alia*, basketball, football, soccer, music, theatre, museum exploration; (iv) Socialization/Community Reintegration, which requires Student to participate in prosocial activities with [Student's current private wraparound services provider] team members in his community and to receive conflict resolution training; (v) Assessment of Leisure Function, which requires Student's private wraparound services provider to conduct an assessment of Student and his family to baseline the current habits, attitudes and conditions exercised during leisure time to determine the best path of treatment, and provides for Student to receive experiential education in the community to build healthy prosocial skills; and (vi) Group and Individual Counseling. This written document was intended to represent the oral presentation the special education consultant gave at Student's November 10, 2009 MDT meeting.⁷
6. The educational consultant believed that Student needed wraparound services in connection with his release from his residential placement because ED is often characterized by poor decision-making and coping skills, as well as a cycle of truancy -- avoidance behavior -- that has to be broken. Moreover, there were rules and regulations at Student's residential placement, and once he transitioned back into the community he would need that same sort of structure, which could be provided via the wraparound services until Student learned to intrinsically follow the rules. The family also needed training to teach them how to structure the home environment.⁸

⁵ Petitioner's Exhibit 4.

⁶ Testimony of CBI case manager.

⁷ Petitioner's Exhibit 17; testimony of special education consultant.

⁸ Testimony of special education consultant.

7. On January 22, 2010, DCPS issued a Prior Notice that changed Student's placement from the residential facility to a full-time private special education school located in the District of Columbia. Student was released from his residential placement on February 25, 2010, and he subsequently began attending the full-time private special education school.⁹
8. In February 2010, after DCPS's preferred wraparound service provider had not yet begun to provide wraparound services to Student, Parent selected Student's current private wraparound services provider to provide the services to Student. DCPS initially funded the private wraparound services. From the perspective of the counselor from Student's private wraparound services provider, Student was initially focused, on point and very involved. He wanted the services and he participated in them.¹⁰
9. On April 26, 2010, Student's MDT meeting was reconvened and the following team members participated in the meeting: Parent, Student, a CBI (community-based intervention) case manager who is employed by DCPS's preferred wraparound services provider, the transitional case manager from DCPS's preferred wraparound services provider, a representative of Student's private wraparound services provider, the admissions coordinator, the special education coordinator ("SEC") and a teacher from the full-time special education school Student was attending at the time, the special education consultant, and a different DCPS representative, who participated by phone. Student reported that things were going well at school. The teacher reported that Student had adjusted quickly, that he was completing his assignments and attending every day, and that he was steadily improving and earning good grades.

The Meeting Notes reflect that Student was receiving wraparound services from both DCPS's preferred wraparound services provider and Student's private wraparound services provider. The representative from Student's private wraparound services provider stated that Student was generally doing well in the program and that the service provider was working on putting family structures in place to support Student. The special education consultant explained that 24/7 availability for assistance was being provided by Student's private wraparound services provider. The CBI case manager stated that CBI provides crisis intervention; the case manager also indicated that he was providing services on a 24/5 basis that would prevent Student from being sent into a more restrictive environment, as well as family support. The special education consultant recommended that the MDT meeting reconvene in 30 days to determine continued needs, and the transitional case manager from DCPS's preferred wraparound services provider stated that she was stepping out of the process since needed services were in place. Upon the DCPS representative's inquiry, it was stated that Student's private wraparound services provider's services were implemented on 2/24/10, and the special education consultant stated that DCPS's preferred wraparound services provider's

⁹ DCPS-9; testimony of Student.

¹⁰ Testimony of special education consultant; testimony of counselor from Student's private wraparound services provider.

services did not start until 3/20/10. The Notes indicate that a follow-up meeting was scheduled for May 25, 2010.¹¹

10. Although the CBI case manager is employed by the same company that DCPS's transitional case manager represents, the CBI case manager has never met the transitional case manager. The CBI case manager began working with Student during March 2010 on a referral from DYRS, and the case manager's goal was to make sure Student remained compliant with probation. The CBI case manager closed out Student's case on September 22, 2010. The CBI case manager is not familiar with Student's November 10, 2009 Meeting Notes, nor is he familiar with Student's IEP. The CBI case manager provided crisis intervention services to Student pursuant to the DYRS referral. It was not the CBI case manager's intent to provide wraparound services to Student pursuant to Student's IEP. In fact, the CBI case manager relied heavily upon and attempted to work closely with Student's counselor from the private wraparound services provider.¹²
11. On May 25, 2010, Student's MDT meeting was reconvened to review the effectiveness of wraparound services. The Meeting Notes indicate that DCPS's preferred wraparound services provider's services were put in place via DYRS for 6 months, contingent upon Student's needs, and they were to be evaluated after 3 months. The CBI case manager stated that services were going well, a treatment plan had been established, and needs were being assessed. There was some concern that Student's absences were increasing, and Student's therapist stated that the absences were being addressed in therapy, but the absences did not seem to present a major problem. Student's special education teacher stated that there were no behavioral or academic issues to be reported. Student's private wraparound services provider reported that services were going well, family team meetings had been conducted consistently, interventions were being put in place, and treatment plans were effective. When the DCPS representative stated that wraparound services were being relinquished from Student's private wraparound services provider as of June 2010 and services would continue with DCPS's preferred wraparound services provider, the special education consultant stated that Parent has a right to legal counsel and that Parent personally selected the private wraparound services provider because DCPS's preferred wraparound service provider's services were put in place 6 weeks late. The special education consultant disagreed that it was overkill to have two providers in place. The Meeting Notes also state: "It was re-clarified that at the 11/10/09 MDT meeting held at [the residential placement], [the DCPS representative in attendance] approved wrap-around services for [Student]. MDT notes were read to the team by [the special education consultant] to confirm this." The Meeting Notes further indicate that the team agreed to meet on July 6, 2010 to conduct a 90-day follow-up on the effectiveness of services.¹³
12. DCPS ceased providing funding Student's private wraparound services in June 2010. Traditionally, wraparound services are provided for up to 1 year, although the services may be provided for more or less time depending upon the individual's needs. Moreover,

¹¹ Petitioner's Exhibit 5; DCPS-3.

¹² Testimony of CBI case manager.

¹³ Petitioner's Exhibit 6; DCPS-4.

a formal or informal evaluation is normally conducted, observations are documented, and an MDT meeting discussion is held before wraparound services are terminated. In this case, however, DCPS unilaterally made the decision to cease providing funding for Student's private wraparound services.¹⁴

13. The private wraparound services provider continued to provide services to Student after DCPS stopped paying for the services and, indeed, was still providing services to Student at the time of the November due process hearings for this case.
14. The July 6, 2010 MDT meeting never took place. Indeed, the record does not reveal that any additional MDT meetings were held for Student subsequent to the May 25, 2010 meeting. Moreover, the parties exchanged more than 30 emails between August 17 and October 27, 2010, but the need for an MDT meeting to discuss the provision/funding of wraparound services was never raised in any of the emails.¹⁵
15. Student's full-time private special education school closed at the end of SY 2009/10. At the beginning of SY 2010/11, Student and DCPS were unable to agree on a placement for Student. DCPS initially offered another full-time private special education school for Student, but Student wanted to attend a DCPS public school. Student began visiting various DCPS schools, and none of them were able to accommodate him for one reason or another. As a result, Student had not attended school from the beginning of the school year through early November 2010, when the due process hearings in this case were held. Moreover, the counselor from Student's private wraparound services provider has found that Student is no longer an eager participant in the wraparound services. Student's affect has changed, and the counselor has experienced more difficulty picking up Student because he leaves prior to his normal time and has overall become more difficult to catch.¹⁶
16. On September 7, 2010, Petitioner filed the Complaint that initiated the instant action.
17. At the November 3, 2010 due process hearing in this case, DCPS agreed to allow Student to attend the specific DCPS public school Student wishes to attend. According to the special education consultant, this school offers a school within a school for ED students, it is a structured program, and it has the teacher Student needs. On the other hand, the special education consultant also maintains that Student still needs wraparound services to be successful at the school because it is a large school with less structure than a traditional day school.¹⁷
18. Once Student is back in school, the counselor from Student's private wraparound services provider expects him to make great progress in light of his previous progress because a

¹⁴ Testimony of special education consultant.

¹⁵ Testimony of special education consultant; *see* Petitioner's Exhibit 16; DCPS-15 and DCPS-17.

¹⁶ *See* DCPS-10; testimony of counselor from Student's private wraparound services provider.

¹⁷ Testimony of the special education consultant.

great majority of Student's previous progress was based on his structured routine, which included getting up and going to school.¹⁸

19. Student feels that his private wraparound services provider has been helping him with life issues, exposing him to new places, telling him to look at the big picture. Although the CBI case manager used to come up to the full-time special education school to see Student and Student also saw the case manager once during the summer, the CBI case manager abruptly stopped working with Student. When asked whether he will need his private wraparound services provider at his new DCPS public school, Student's answer is "yes and no." Student feels that his private wraparound services provider encourages and motivates him, but he realizes that at the end of the day he is the one who will face the consequences of not going to school. He believes he is now making better decisions in certain areas of his life, and that his counselor from the private wraparound services provider picked up where his residential placement left off and helped to keep him going. At this point, however, Student simply wants to get back in school and earn his degree so that he can make his mother and himself proud.¹⁹

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

Wraparound Services

IDEIA requires that a disabled child's IEP include, *inter alia*, a statement of the special education and related services to be provided to the child. 34 C.F.R. § 300.320(a)(4). IDEIA defines "related services" to mean "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes . . . psychological services, . . . recreation, including therapeutic recreation, counseling services, including rehabilitation counseling . . . Related services also include . . . social work services in school, and parent counseling and training." 34 C.F.R. § 300.34(a).

In this context, "counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel." 34 C.F.R. § 300.34(c)(2). "Parent counseling and training means assisting parents in understanding the special needs of their child; [p]roviding parents with information about child development; and [h]elping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP." 34 C.F.R. § 300.34(c)(8) (internal subsection numbers omitted). "Psychological services includes [a]dministering psychological and educational tests, and other assessment procedures; [i]nterpreting assessment results; [o]btaining, integrating, and interpreting information about child behavior and conditions related to learning; [c]onsulting with other staff members in planning school programs to meet the special educational needs of children as indicated by

¹⁸ Testimony of counselor from Student's private wraparound services provider.

¹⁹ Testimony of Student.

psychological tests, interviews, direct observation, and behavioral evaluations; [p]lanning and managing a program of psychological services, including psychological counseling for children and parents; and [a]ssisting in developing positive behavioral intervention strategies. 34 C.F.R. § 300.34(c)(10) (internal subsection numbers omitted).

Moreover, “[r]ecreation includes assessment of leisure function; [t]herapeutic recreation services; [r]ecreation programs in schools and communities agencies; and [l]eisure education.” 34 C.F.R. § 300.34(c)(11) (internal subsection numbers omitted). “Rehabilitation counseling services means,” *inter alia*, “services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability.” 34 C.F.R. § 300.34(c)(12). “Social work services in schools include [p]reparing a social or developmental history on a child with a disability; [g]roup and individual counseling with the child and family; [w]orking in partnership with parents and others on those problems in a child’s living situation (home, school, community) that affect the child’s adjustment in school; mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program, and assisting in developing positive behavioral intervention strategies.” 34 C.F.R. § 300.34(c)(14) (internal subsection numbers omitted). “Transportation includes [t]ravel to and from school and between schools; travel in and around school buildings; and specialized equipment, if required to provide special transportation for a child with a disability.” 34 C.F.R. § 300.34(c)(16).

In this case, Petitioner asserts that the wraparound services at issue fall within IDEIA’s definition of related services and should have been placed on Student’s IEP. Petitioner further asserts that Student’s MDT team agreed that Student required the wraparound services, but DCPS failed to ever issue a referral for the services. Petitioner also argues that DCPS lacked authority to unilaterally determine that Student would no longer receive wraparound services from the private service provider and stop funding same as of June 2010. As relief for these alleged denials of FAPE, Petitioner seeks an Order requiring DCPS to fund the wraparound services that are still being provided by the private service providing dating back to June 2010 and extending forward until Student’s MDT meets and determines that the services are no longer necessary.

On the other hand, DCPS asserts that the wraparound services at issue are well beyond the scope of the related services required under IDEIA. In DCPS’s opinion, related services should start in the school building and move outward, instead of starting outside of the school building and pushing a student into school. DCPS’s position is that it is not responsible for managing wraparound services and that it is only responsible for providing school-based services. DCPS further maintains that an LEA does not have to provide services to a student just because IEP team members mention the services. DCPS acknowledges that it bears a portion of the responsibility for providing services to Student, and in this context, it relies upon the CBI crisis intervention services that were provided to Student beginning in March 2010 and maintains that those services appropriately began after Student’s release from his residential placement.

Upon review of the documentary and testimonial evidence in this case, as well as the parties’ arguments, the hearing officer is concerned that the primary advocate for the wraparound services during Student’s MDT meetings and at the due process hearings for this case was a

special education consultant who consults with both the residential facility where Student previously resided and the private wraparound services provider that ultimately began providing services to Student. In connection with this concern, the hearing officer notes that the consultant's 2-page written wraparound services plan for Student, which the consultant testified was written subsequent to Student's November 10, 2009 MDT meeting to represent the oral presentation the consultant gave at that meeting, expressly contemplated that the services would be provided by the private wraparound service provider that the consultant consults with and that ultimately ended up providing the services to Student at DCPS's expense.²⁰ The hearing officer further notes that the consultant appeared to insist on the provision of wraparound services to Student even when Student's therapist stated that Student might not be receptive to the services.²¹

Notwithstanding this concern, however, the uncontroverted evidence in this case demonstrates that Student's November 10, 2009 MDT, including the DCPS/LEA representative, agreed to provide Student with wraparound services consisting of the 5 hours of services per day for 5 days a week that were recommended by Student's treating psychiatrist for at least six months.²² The evidence in this case further demonstrates that DCPS unilaterally determined at Student's May 25, 2010 MDT meeting that Student would no longer receive wraparound services from the private service provider and would instead continue receiving services from the CBI case manager's employer, even though DCPS had never issued a referral to that company for Student's wraparound services and the CBI case manager was not providing wraparound services to Student but was instead providing much more limited crisis intervention services to Student pursuant to a DYRS referral.²³ As the hearing officer finds that IDEIA's definition of related services is broad enough to include the wraparound services at issue in this case, and in light of the evidence outlined herein, the hearing officer will order DCPS to retroactively fund Student's wraparound services from the private service provider from June 2010, when DCPS ceased providing funding, through August 2010, which represents the sixth month after the services began.

Moreover, as Student's MDT never revisited the issue of wraparound services to determine whether Student required additional services beyond the six months initially contemplated, and Student has not attended school since the beginning of SY 2010/11, which has had a negative effect on Student, the hearing officer will also order (1) DCPS to fund Student's wraparound services from the private service provider retroactively from August 2010 up to November 18, 2010, which represents the date of Student's next MDT meeting per the parties' agreement at the due process hearings in this case, and (2) the parties to direct the MDT to discuss and determine at the November 18, 2010 MDT meeting whether Student continues to require wraparound services, and if so, what amount, at what frequency and for how long.²⁴

²⁰ Finding of Fact ("FOF") 5.

²¹ FOF 2.

²² FOF 2.

²³ FOFs 10, 11, and 12.

²⁴ FOFs 14 and 15.

ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered:

1. DCPS shall comply with its agreement, which was made during the course of the due process hearings for this case, to assign the specific DCPS public school of Student's choice as Student's location of services/educational placement for the balance of SY 2010/11.²⁵
2. The parties shall comply with their agreement, which was made during the course of the due process hearings for this case, to participate in an IEP meeting for Student on November 18, 2010 at 1:00 pm at a mutually agreeable location to be determined by the parties.
3. DCPS shall fund Student's wraparound services, which the private service provider has continued to provide, retroactively from June 2010, when DCPS unilaterally ceased providing funding for the services, up to November 18, 2010, when Student's next MDT meeting is to be held.
4. At Student's November 18, 2010 MDT meeting, the parties shall direct the MDT to discuss and determine whether Student continues to require wraparound services, and if so, what amount, at what frequency and for what duration. If the team determines that additional wraparound services are indicated, those services shall be added directly to Student's IEP and DCPS shall provide funding for the services.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within ninety (90) days from the date of the Hearing Officer Determination in accordance with 20 USC §1415(i).

Date: 11/14/2010

/s/ Kimm Massey
Kimm Massey, Esq.
Hearing Officer

²⁵ The DCPS school at issue is identified in a parenthetical in the Appendix hereto.