STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted],
Appellant

_____/

Docket No. 2009-24461 DISC
Case No. [redacted]

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.,* upon the Appellant's request for a hearing appealing the Department's denial of exception from Medicaid Managed Care Program enrollment.

After due notice, a hearing was held on [redacted]. [redacted], Appellant's representative, personally appeared and testified on Appellant's behalf. [redacted], represented the Department. [redacted], appeared and testified as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for Special Disenrollment-For Cause from the Managed Care Program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a [redacted] Medicaid Beneficiary who was enrolled in [redacted], a Medicaid Health Plan (MHP), at all times relevant to this matter.

2. Appellant has been enrolled with [redacted] since [redacted]. (Exhibit 1, p. 4)

3. On [redacted], the Department received a Special Disenrollment-For Cause request, from Appellant, which states that: she has cerebral palsy, migraine headaches, hydrocephalus, "Vp Shunt", and poor muscles contractors, which require her to see many specialists at the [redacted]; her MHP requires prior approval from her primary care physician (PHP) to see any specialists; and the doctors that she is allowed to see "are not equipped for a person with the severity of cerebral palsy and disabilities as I have." (Exhibit 1, p. 8)

4. Appellant submitted a letter, from one of her specialists, which states that Appellant has special needs and needs to see multiple specialists; and she can be best served if she has straight Medicaid. (Exhibit 1, pp. 10 & 11)

5. On [redacted], the Department sent Appellant notice that his request for Special Disenrollment was denied on the basis that: the medical information provided was from a doctor that works with Appellant's health plan or accepts referrals; the information submitted by Appellant did not describe an access to care/services issue that would allow for a change in health plans outside of the open enrollment period; and her MHP has and can continue to refer her for specialty care at [redacted] (Exhibit 1, p. 7)

6. On [redacted], the State Office of Administrative Hearings and Rules received Appellant's hearing request, protesting the denial of her Special Disenrollment request.

7. On or about [redacted], [redacted] sent a Special Disenrollment for Cause Response to the Department, which states in pertinent part that: Appellant has been refereed to the MHP's Case Management Department and is currently in need of continual care resulting from incontinence, wheelchair confinement, and a number of other health issues; Appellant is currently being treated by all [redacted] specialists, and authorizations have been entered for one year for several physicians; and the member will remain in case management as long as coordination of care is required. (Exhibit 1, p. 12)

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

On May 30, 1997, the Department was notified of the Health Care Financing Administration's approval of its request for a waiver of certain portions of the Social Security Act to restrict Medicaid beneficiaries' choice to obtain medical services only from specified Qualified Health Plans.

> The Department of Community Health, pursuant to the provisions of the Social Security Act Medical Assistance Program, contracts with the Medicaid Health Plan (MHP) to provide State Medicaid Plan services to enrolled beneficiaries. The Department's contract with the MHP specifies the conditions for enrollment termination as required under federal law:
>
> 12. Disenrollment Requests Initiated by the Enrollee
>
> (b) Disenrollment for Cause
>
> The enrollee may request that the Department review a request for disenrollment for cause from a Contractor's plan at any time during the enrollment period to allow the beneficiary to enroll in another plan. **Reasons cited in a request for disenrollment for cause may include: information that shows you have a serious medical condition that is under active treatment form a doctor who does not participate with the health plan in which you are currently enrolled; lack of access to providers or necessary specialty services covered under the Contract or concerns with quality of care; and lack of access to primary care within 30miles/30 minutes of residence. Beneficiaries must demonstrate that appropriate care is not available by providers within the Contractor's provider network or through non-network providers approved by the Contractor.** (Bold emphasis added by ALJ)
>
> *MDCH/MHP Contract, Section I2- (b), FY 2008Version, page 31.*
>
> Both the special disenrollment request form filled out by the enrollee and the Medicaid Health Plan contract language give details about the criteria that must be met in order for an enrollee's request for special disenrollment to be granted. The special disenrollment request form filled out by the enrollee has an "INSTRUCTIONS" section at the top of the first page. Bullet numbers three and four of six-bullet points state:
>
> - Attach documentation from your doctor to support your request.
> - **If you cannot obtain information from your doctor(s), on a separate sheet of paper, state why and give your doctor's name, telephone number and the office address so that we can follow up with them.** (Exhibit 1 Page 5)

In the case, the Department received a Special Disenrollment-For Cause request, from Appellant, which states that: she has cerebral palsy, migraine headaches, hydrocephalus, "Vp Shunt", and poor muscles contractors which requires her to see many specialists at the [redacted]; her MHP requires prior approval from her primary care physician (PHP) to see any specialists; and the doctors that she is allowed to see "are not equipped for a person with the severity of cerebral palsy and disabilities as I have."

The Department received a response from [redacted] which states in pertinent part that: Appellant has been referred to the MHP's Case Management Department and is currently in need of continual care resulting from incontinence, wheelchair confinement, and a number of other health issues; Appellant is currently being treated by all [redacted] specialists, and authorizations have been entered for one year for several physicians; and the member will remain in case management as long as coordination of care is required.

The Department's denial of the request for Special Disenrollment must be upheld. Appellant failed to provide any evidence that she met the eligibility criteria for a Special Disenrollment-For Cause. Appellant failed to establish any access to care/services issues that would allow for a change in health plans outside of the open enrollment period. Further, the evidence on the record fails to establish that Appellant's MHP is unable to meet her health care needs.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for Special Disenrollment-For Cause from the Managed Care Program.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED.**

Marya A. Nelson-Davis
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: _____7/29/2009_____

***** NOTICE *****

The State Office of Administrative Hearings and Rules may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.