

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

_____,
Appellant
_____ /

**Docket No. 2009-35406 DISC
Case No. _____**

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.

After due notice, a telephone hearing was held on _____.
_____ appeared on her own behalf. _____,
represented the Department. _____,
_____ appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for special disenrollment for cause from Managed Care Program enrollment?

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 Medicaid Beneficiary enrolled in the _____ (MHP) since _____. The Appellant is presently enrolled in the MHP.
2. The Michigan Department of Community Health contracts with the MHP to provide State Medicaid Plan services to the Appellant and other enrolled beneficiaries.
3. On _____, the Department of Community Health Enrollment Services Section received a For Cause Request for Special Disenrollment from the Appellant requesting to be disenrolled from the MHP.

(Department Exhibit 1, Page 15). No medical documentation was included as part of the request.

4. The Department faxed the request to the MHP. The MHP responded that it had received Appellant's complaints and had assigned a new primary care physician, assigned a new medical equipment supplier, as well as given her preference of a transportation vendor. (Department Exhibit 1, Pages 16, 17, 18).
5. The Department reviewed the Appellant's request and the MHP response and denied the MHP disenrollment request. Written notice of the denial was sent to the Appellant on ██████████. (Department Exhibit 1, Pages 7, 14).
6. The Department received the Appellant's Request for Administrative Hearing on ██████████. (Exhibit 1, Pages 6-14).

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 lack of access to providers or necessary specialty services covered under the Contract or concerns with quality of care. 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 2009 Version, page 32.

The Department's witness ██████ credibly testified that when she received the Appellant's Request for Special Disenrollment she faxed the request to the MHP. The MHP responded that it had assigned a new primary care physician, assigned a new medical equipment supplier, as well as given her preference of a transportation vendor. (Department Exhibit 1, Pages 16, 17, 18).

The Appellant provided extensive testimony and document evidence about the three issues in her request for hearing: transportation to medical appointments, durable equipment supplier and primary care physician.


The Department witness testified, and the Department representative clarified, that a special disenrollment cannot occur absent medical documentation from a treating doctor regarding access to care and services issues. The Department witness testified, and the Department representative clarified, that Appellant's special disenrollment was denied because no medical documentation from her treating doctor regarding access to care and services issues was attached to her request for disenrollment.

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 includes clear instructions for requesting a special enrollment. The instructions explicitly required the Appellant to attach documentation from her doctor to support her request. (Department Exhibit 1, Page 20).

The Appellant did not attach information from her doctor and admitted so during the hearing. No documentation was received from the Appellant's doctor.

In addition, a review of the evidence in the record demonstrates that the MHP had assigned a new primary care physician, assigned a new medical equipment supplier, as well as given her preference of a transportation vendor, prior to her request for hearing. While the Appellant expressed frustration about her interactions with the MHP and its providers, documentation from the MHP indicated it had been responsive and that Appellant may have been in part complicit in the issue. Without supportive documentation from her treating physician Appellant failed to substantiate any MHP deficit in access to care, quality of care or access to a primary care physician.

The Appellant failed to provide a preponderance of evidence that she provided medical documentation from her treating physician, or that the MHP had a lack of access to covered services or providers, or that a quality of care issue existed. The Appellant thus failed to meet the criteria for special disenrollment.


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The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request for MHP special disenrollment.

IT IS THEREFORE ORDERED that:

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

Lisa K. Gigliotti
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: 

Date Mailed: 10/29/2009

***** 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.