

**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:

██████████

Appellant

_____ /

Docket No. 2009-6459 DISP
Case No. ██████████
Load No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, ██████████, (Appellant) appeared and testified on her own behalf. ██████████, represented the Department. ██████████, testified as a witness for the Department.

ISSUE

Did the Department properly disenroll the Appellant from Medicaid's Managed Care program at the request of ██████████?

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 Medicaid Health Plan (MHP).
2. The Department of Community Health contracts with ██████████ to provide State Medicaid Plan services to the Appellant and other enrolled Medicaid beneficiaries.

██████████
Docket No. 2009-6459 DISP
Decision and Order

3. On ██████████ ██████████, the MHP, sent a written notice to the Appellant, informing her of its intent to request that the Department disenroll her from its health plan. (Exhibit 1, p. 10)
4. On ██████████, the Department of Community Health Enrollment Service Section received a Request for Special Disenrollment from the MHP, requesting that the Appellant be disenrolled from ██████████ due to noncompliance or actions inconsistent with her membership. (Exhibit 1, p. 9)
5. ██████████ sent with the Request for Special Disenrollment the following: letters from Appellant's Primary Care Physician (PCP), requesting that ██████████ remove Appellant from their practices due to her continued failure to follow medical advice; Documentation from Appellant's current PCP, alleging that she refused to return for follow-up medical care and refuses to see a podiatrist as advised for a foot condition related to her diabetes; a written ██████████ ██████████ requesting that Appellant be removed from their practice for her continued pattern of noncompliance with medical treatment and being very difficult to manage due to this; documentation from ██████████ Care, documenting that Appellant has an established track record of refusing home care services post hospitalizations, and then, subsequently, being readmitted as an inpatient for treatment of cellulites, exacerbation of asthma, and other chronic disease processes because of this; case management notes, documenting Appellant's failure to work in a cooperative manner with MHP or health care providers; documentation from two different physicians, documenting Appellant's repeated refusal to keep office visits despite their office efforts to accommodate her; documentation by ██████████ staff that Appellant was placed on a Pharmacy "lockout" program due to her PCP's allegations that she seeks narcotics from multiple providers; and a printout of Appellant's authorization history, documenting ██████████ extensive effort to provide Appellant with necessary medical care, although Appellant continually complained to ██████████ that she was not getting adequate care; and documentation from ██████████, ██████████ DME provider, substantiating their inability to satisfactorily resolve Appellant's continued complaints about an electric wheelchair they provided, and the documentation supports that over the course of approximately two years, multiple efforts were made by ██████████ ██████████ to resolve the matter, however, Appellant failed to cooperate with them by refusing to allow service technicians into her home, and although the findings concluded that the wheelchair was working properly, Appellant continued to complain about the matter. (Exhibit 1, pp. 11-133)
6. The Department approved ██████████ disenrollment request.

7. On ██████████, the Department sent a letter, to Appellant, stating that she would be disenrolled from ██████████, effective ██████████, due to actions inconsistent with plan membership, alleged noncompliance. (Exhibit 1, page 7).
8. On ██████████, the State Office of Administrative Hearings and Rules received Appellant's Request for Administrative Hearing, protesting her disenrollment.

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.

The Department's CMHP/ Qualified Health Plan contract disenrollment provisions must comply with applicable Federal regulations for Health Plan contracts created under the authority of the Medical Assistance program. Specifically 42 CFR 434.27 provides:

Sec. 434.27 Termination of enrollment.

- (a) All HMO and PHP contracts must specify—
 - (1) The reasons for which the HMO or PHP may terminate a recipient's enrollment;
 - (2) That the HMO or PHP will not terminate enrollment because of an adverse change in the recipient's health; and
 - (3) The methods by which the HMO or PHP will assure the agency that terminations are consistent with the reasons permitted under the contract and are not due to an adverse change in the recipient's health.

The Department of Community Health, pursuant to the provisions of the Social Security Act Medical Assistance Program, contracts with the ██████████ to provide State Medicaid Plan services to enrolled beneficiaries. The Department's contract with the Plan provides:

Disenrollment Requests Initiated by the Contractor

The Contractor may initiate special disenrollment requests to DCH based on Enrollee actions inconsistent with the Contractor membership—for example, if there is fraud, abuse of the Contractor, or intentional misconduct, or if in the opinion of the attending PCP, the Beneficiary's behavior makes it medically infeasible to safely or prudently render Covered Services to the enrollee. Special disenrollment requests are divided into three categories:

- Violent/life threatening situations involving physical acts of violence; physical or verbal threats of violence made against the Contractor providers, staff or the public at the Contractor locations; or stalking situations.
- Fraud/misrepresentation involving alteration or theft of prescriptions misrepresentation of Contractor membership, or unauthorized use of CHCP benefits.
- **Other noncompliance situations involving the failure to follow treatment plan; repeated use of non-contractor providers: Contractor provider refusal to see the Enrollee, repeated emergency room use and other situations that impede care.**

*Department's Comprehensive Health Care Program
(CMHP) Contract. Section II-G.11 page 19*

In this case, the MHP took action to disenroll Appellant from its health plan due to noncompliance or actions inconsistent with her membership. The Department witness, ██████████, testified that the MHP's attempt to work with Appellant has failed due to her noncompliant behavior, and the MHP is no longer able to render health care services to Appellant, safely. Appellant testified that she is satisfied with ██████████ and is surprised by their action to disenroll her.


This Administrative Law Judge must uphold the Department's action to disenroll Appellant from ██████████. The Department established by a preponderance of evidence the following: Appellant's Primary Care Physician (PCP), requested that ██████████ remove

Appellant from their practices due to her continued failure to follow medical advice; Appellant's current PCP alleged that she refused to return for follow-up medical care and refuses to see a podiatrist as advised for a foot condition related to her diabetes; ██████████ requested that Appellant be removed from their practice for her continued pattern of noncompliance with medical treatment and being very difficult to manage due to this; ██████████ documented that Appellant has an established track record of refusing home care services post hospitalizations, and then, subsequently, being readmitted as an inpatient for treatment of cellulites, exacerbation of asthma, and other chronic disease processes because of this; there are case management notes, documenting Appellant's failure to work in a cooperative manner with her MHP and health care providers; two different physicians documented Appellant's repeated refusal to keep office visits despite their office efforts to accommodate her; ██████████ staff placed Appellant on a Pharmacy "lockout" program due to her PCP's allegations that she seeks narcotics from multiple providers; ██████████ has made an extensive effort to provide Appellant with necessary medical care, however, Appellant continues to complain to ██████████ that she was not getting adequate care; and ██████████ DME provider, was unable to resolve Appellant's continued complaints about an electric wheelchair they provided her with, and the documentation supports that over the course of approximately two years, multiple efforts were made by ██████████ and ██████████ to resolve the matter, however, Appellant failed to cooperate with them by refusing to allow service technicians into her home, and although the findings concluded that the wheelchair was working properly, Appellant continued to complain about the matter. (Exhibit 1, pp. 11-133)

Appellant failed to provide the necessary evidence to refute the Department's evidence. During the hearing, Appellant requested that she be allowed to obtain evidence to establish that she has not engaged in behavior inconsistent with her ██████████ membership. However, her request to obtain additional evidence was denied because she had two previous scheduled Administrative Hearings on this issue adjourned twice, and she had ample time to obtain representation and the evidence that she feels is needed to prove her case. Accordingly, the Department's proposed action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department acted properly in taking action to disenroll the Appellant from the MHP.

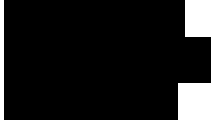

Docket No. 2009-6459 DISP
Decision and Order

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:



Date Mailed: 3/17/2009

***** 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.