

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

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IN THE MATTER OF:

**Docket No. 2010-29917 DISP
Case**

██████████
Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████. ██████████, Appellant, appeared on her own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████ MDCH Special Disenrollment Program Coordinator, appeared as a witness for the Department.

ISSUE

Did the Department properly disenroll the Appellant from the Medicaid Managed Care program at the request of the MHP?

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 and was enrolled in the Health Plan of Michigan Medicaid Health Plan (MHP). The Appellant was enrolled in the MHP in ██████████ and ██████████ her last day of enrollment ██████████ (Department Exhibit 1, Page 8).
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. Appellant is a ██████████ with no physician-diagnosed major medical condition or cancer. Appellant's drug screens indicate marijuana and narcotics use. (Department Exhibit 1, Pages 32-25).
4. On ██████████ the Department of Community Health Enrollment Services Section received a For Cause Request for Special Disenrollment from the MHP for actions inconsistent with the MHP membership. (Department Exhibit 1, Page 9).
5. The MHP request had more than 70 pages of attached documentation indicating Appellant had more than 100 prescriptions filled, many for narcotics, from more than a dozen physician prescribers; used various pharmacies, some more than fifty (50) miles away; and used multiple emergency rooms visits, some for which the emergency room physician indicated suspicions of drug seeking behavior. (Department Exhibit 1, Pages 12-83).
6. On multiple occasions Appellant failed to show for follow-up appointments to the emergency room visits or for testing after doctor appointments. (Department Exhibit 1, Pages 12-83).
7. The Department reviewed the Appellant's MHP request and granted the MHP disenrollment request. Written notice of the denial was sent to the Appellant on ██████████. The notice stated the disenrollment was due to actions inconsistent with plan membership, including alleged inappropriate use of the emergency for non-emergent conditions and/or continued inappropriate use of prescription medications. (Department Exhibit 1, Page 7).
8. The State Office of Administrative Hearings and Rules received the Appellant's Request for Administrative Hearing on ██████████. (Exhibit 1, Page 6).

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, in particular 42 CFR 438.56. The contract language between the Department and the MHP is consistent with 42 CFR 438.56. Comprehensive Health Care Program for the Michigan Department of Community Health, 2010 Contract 1.022, in pertinent part:

B. Disenrollment Requests Initiated by the Contractor

(1) Special Disenrollments

The Contractor may initiate special disenrollment requests to DCH based on enrollee actions inconsistent with Contractor membership—for example, if there is fraud, abuse of the Contractor, or other intentional misconduct; or if, the enrollee's abusive or violent behavior poses a threat to the Contractor or provider. The Contractor is responsible for members until the date of disenrollment. Special disenrollment requests are divided into three categories:

- a) Violent/life-threatening situations involving physical acts of violence; physical or verbal threats of violence made against Contractor providers, staff, or the public at Contractor locations; or stalking situations
- b) Fraud/misrepresentation involving alteration or theft of prescriptions, misrepresentation of Contractor membership, or unauthorized use of CHCP benefits
- c) Other actions inconsistent with plan membership. Examples include, but are not limited to, the repeated use of non-Contractor providers without referral or when in-network providers are available; discharge from multiple practices of available Contractor's network providers; inappropriate use of prescription medication or drug seeking behaviors including inappropriate use of emergency room facilities for drug-seeking purposes. (Underline added).

The Department's witness ██████ credibly testified that when she received the MHP's Request for Special Disenrollment she reviewed the request in light of the evidence supplied by the MHP. The Department's witness applied the law to the evidence and determined the disenrollment was "...due to actions inconsistent with plan membership, inappropriate use of prescription medication or drug seeking behaviors including inappropriate use of emergency room facilities for drug-seeking purposes" (Department Exhibit 1, Page 7).

The Appellant testified that she thought she was being cut off from her Medicaid and that was the reason she was appealing her case.

The Medicaid Health Plan contract language and the special disenrollment request form gives details about the criteria that must be met in order for a contractor's request for special disenrollment to be granted. (Department Exhibit 1).

The overwhelming evidence of record supports the MHP's request and the Department's grant of for cause special disenrollment for Appellant due to actions inconsistent with plan membership, inappropriate use of prescription medication or drug seeking behaviors including alleged inappropriate use of emergency room facilities for drug-seeking purposes. The Department's intent for Appellant's subsequent placement into the Medicaid fee-for-service beneficiary monitoring program is also supported by the overwhelming evidence.

The Appellant failed to provide a preponderance of evidence that the Department's grant of for cause special disenrollment was improper.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly granted the MHP's request for Appellant's for cause special disenrollment. The referral for placement of Appellant in the beneficiary monitoring program was also proper.

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

[REDACTED]
Docket No. 2010-29917 DISP
Hearing Decision & Order

cc:

[REDACTED]

Date Mailed: 7/9/2010

***** 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.