

**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. 2010-43946 MCE
[REDACTED]

[REDACTED]
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.*, following the Appellant's request for a hearing.

After due notice, a hearing was held on [REDACTED]. The Appellant, [REDACTED], appeared on his own behalf. [REDACTED], Appeals Review Officer, represented the Department. [REDACTED], Enrollment Services Specialist, appeared as a witness for the Department.

ISSUE

Does the Appellant meet the requirements for a managed-care exception?

FINDINGS OF FACT

The ALJ, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Appellant is a Medicaid beneficiary.
2. The Appellant resides in [REDACTED]. He is a member of the population required to enroll in a Medicaid Health Plan (MHP).
3. On [REDACTED], the Michigan Department of Community Health (MDCH) Enrollment Services Section received a managed-care exception request from the Appellant's medical provider, [REDACTED]. (Exhibit 1, page 8)
4. On [REDACTED], the Appellant's request for a managed-care exception was denied. The denial notice indicated that [REDACTED] participates in at least one MHP available to the Appellant. (Exhibit 1, pages 9-10)
5. On [REDACTED], the State Office of Administrative Hearings and Rules for

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the Department of Community Health received the Appellant's signed Request for Administrative Hearing. (Exhibit 1, page 7)

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.

Michigan Public Act 131 of 2009 states, in relevant part:

Sec. 1650 (3) The criteria for medical exceptions to HMO enrollment shall be based on submitted documentation that indicates a recipient has a serious medical condition, and is undergoing active treatment for that condition with a physician who does not participate in 1 of the HMOs. If the person meets the criteria established by this subsection, the department shall grant an exception to mandatory enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

The MDCH Medicaid Provider Manual, Beneficiary Eligibility Section, July 1, 2010, pages 31-32, states in relevant part:

The intent of the medical exception process is to preserve continuity of medical care for a beneficiary who is receiving active treatment for a serious medical condition from an attending physician (M.D. or D.O.) who would not be available to the beneficiary if the beneficiary is enrolled in a MHP. The medical exception may be granted on a time-limited basis necessary to complete treatment for the serious condition. The medical exception process is only available to a beneficiary who is not yet enrolled in a MHP, or who has been enrolled for less than two months. MHP enrollment would be delayed until one of the following occurs:

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- the attending physician completes the current ongoing plan of medical treatment for the patient's serious medical condition, or
- the condition stabilizes and becomes chronic in nature, or
- the physician becomes available to the beneficiary through enrollment in a MHP.

If the treating physician can provide service through a MHP that the beneficiary can be enrolled in, then there is no basis for a medical exception to managed care enrollment.

Serious Medical Condition

Grave, complex, or life threatening

Manifests symptoms needing timely intervention to prevent complications or permanent impairment.

An acute exacerbation of a chronic condition may be considered serious for the purpose of medical exception.

Chronic Medical Condition

Relatively stable

Requires long term management

Carries little immediate risk to health

Fluctuates over time, but responds to well-known standard medical treatment protocols.

Active treatment

Active treatment is reviewed in regards to intensity of services when:

- The beneficiary is seen regularly, (e.g., monthly or more frequently,) and
- The condition requires timely and ongoing assessment because of the severity of symptoms and/or the treatment.

Attending/Treating Physician

The physician (M.D. or D.O.) may be either a primary care doctor or a specialist whose scope of practice enables the interventions necessary to treat the serious condition.

MHP Participating Physician

A physician is considered participating in a MHP if he is in the MHP provider network or is available on an out-of-network basis with one of the MHPs with which the beneficiary can be enrolled. The physician may not have a contract with the MHP but may have a referral arrangement to treat the plan's enrollees. If the physician can treat the beneficiary and receive payment from the plan, then the beneficiary would be enrolled in that plan and no medical exception would be allowed.

The Department does not dispute that the Appellant has a serious medical condition. The Appellant's request for medical exception indicates that he is a paraplegic and that he suffers from ulcers and skin breakdown. (Exhibit 1, page 8) However, in reviewing the request, the Department found that ██████████, the requesting physician, does participate in at least one MHP available to the Appellant, Health Plan of Michigan. (Exhibit 1, pages 9-10) Accordingly, the Department determined that the medical-exception criteria had not been met as the doctor that submitted the medical-exception request is available to the Appellant through the MHP.

The Appellant testified that he has received a medical exception for the last 17 years because of his various medical conditions, and he cannot understand why he is now being denied. He further testified that he believes that the denial is wrong and is concerned about how it will affect his medical treatment.

This ALJ reviewed the evidence of record. The evidence supports the Department's determination that the Appellant did not meet the criteria because the doctor indicated on the medical-exception request does participate in an MHP. The burden of proof rests with the Appellant to establish that the Department's decision is incorrect. The evidence does not establish that the Appellant meets all the criteria necessary to be granted a managed-care exception.

DECISION AND ORDER

The ALJ, based on the above findings of fact and conclusions of law, decides that the Appellant does not meet the criteria for Medicaid managed-care exception.

IT IS THEREFORE ORDERED THAT:

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The Department's decision is AFFIRMED.

Kristin M. Heyse
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc:

Date Mailed: 10/18/2010

***** 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.