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. 2010-9816 DISC
Case No.

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 . represented . , represented the Department. , appeared as a witness for the Department. The record was held open for submission of additional evidence by the Appellant and review by the Department. The record closed .

ISSUE

Did the Department properly deny Appellant's request to receive Special Disenrollment-For Cause from a 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 an minor child. She is a Medicaid Beneficiary who is enrolled in , a Medicaid Managed Health Care plan (MHP).

2. On , the Department received Appellant's Special Disenrollment-For Cause Request, which indicates that she wants to switch health plans so that she can continue seeing a doctor who she has

established care with. She objects to changing her doctor in part due to the cited expense of driving farther to treat with a doctor who accepts .

3. The Appellant objects to one of the primary care physicians available through her current plan due to her perception that he speaks limited English.

4. On , the Department denied the request from the Appellant.

5. On , the Department received the request for a formal, administrative hearing.

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 2007Version, 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 11)

In this case, the Department received Appellant's Special Disenrollment-For Cause request, which indicates that she wants to switch health plans so that she can treat with a provider she prefers in a location she prefers. She further asserts (her daughter) has established care with her preferred doctor who does not accept but does accept . Finally, she asserts she cannot afford to establish care with an out of town provider due to the expense of driving further.

The Department asserted at hearing the Appellant does not meet the for cause criteria necessary to be granted a special disenrollment. She has not been denied access to care or medical treatment while enrolled in , nor is she in the midst of active treatment for a serious medical condition with doctors who no longer participate with her health care plan. The distance to another primary care provider was evidenced as being within the 30 miles/minutes parameter established in the policy; furthermore, was only a few miles further than the doctor the Appellant's expressed a preference for. Finally, no evidence was presented establishing the Appellant experienced a lack of access to the medical care she needs.

The Appellant presented evidence at hearing that was reviewed by the Department. The evidence submitted does not establish the Appellant is suffering from a serious medical condition or that she is in the midst of a specialized treatment regime that requires she continue with the same physician. The Appellant did not present any evidence to dispute the Department's allegations that she does not meet the criteria.

The Department's denial of the request for Special Disenrollment must be upheld. Appellant failed to provide any evidence that she meets the eligibility criteria for a Special Disenrollment-For Cause. There is no evidence that Appellant has a serious medical condition that is being treated by a provider who does not participate with [redacted] or that the MHP is unable to meet her health care needs. The Department witness testified that the Appellant will be able to change her health plan without cause and without providing documentation of reason or need during open enrollment, in [redacted] of this year.

DECISION AND ORDER

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 Special Disenrollment-For Cause from the Managed Care Program.

IT IS THEREFORE ORDERED that:

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

____
Jennifer Isiogu
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 2/9/2010

***** 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.