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. 2010-22361 DISP
Case [redacted]

[redacted],

Appellant
_____/

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 appealing the Department's denial of exception from Medicaid Managed Care Program enrollment.

After due notice, a hearing was held on [redacted].

[redacted] Appellant, appeared on his own behalf. [redacted] represented the Department. [redacted], appeared as a witness for the Department.

ISSUE

Did the Department properly disenroll the Appellant from Medicaid's 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 [redacted]. The Appellant was enrolled in the MHP in [redacted], his last day of enrollment [redacted].

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 [redacted], 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 11). The MHP request had attached documentation of a prescription that had been altered and presented to a pharmacy for dispensing. (Department Exhibit 1, Pages 11-22). The prescription alteration was reported to OIG, DCH and F & A. (Department Exhibit 1, Pages 11-22).

4. 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 [redacted]. The notice stated the disenrollment was "due to actions inconsistent with plan membership, alleged fraud/misrepresentation with regards to a forged or altered prescription. "(Department Exhibit 1, Page 9).

5. The Department received the Appellant's Request for Administrative Hearing on [redacted]. (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.

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 [redacted] 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, alleged fraud/misrepresentation with regards to a forged or altered prescription." (Department Exhibit 1, Page 9).

The Appellant testified that his son was drawing and drew on the prescription, and that was why the number of Vicodin ES prescribed was changed to 130, from the 30 written by the doctor. The Department established through evidence that the Appellant's physician had written #30 and the prescription was altered to place a "1" before the "#30" such as " #130" and was then presented at a pharmacy for dispensing.

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, Pages 11 and 23).

The 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, specifically alleged fraud/misrepresentation with regards to a forged or altered prescription, with Appellant's subsequent placement into the Medicaid fee for service beneficiary monitoring program.

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.

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: [redacted]

Date Mailed: 05/19/2010

***** 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.