

**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. 2010-23447 MCE

██████████

**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 ██████████. ██████████ appeared on his own behalf. ██████████, Appeals Review Officer, represented the Department. ██████████, 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 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.
2. The Appellant resides in ██████████ Michigan. He is a member of the population required to enroll in a Medicaid Health Plan (MHP).
3. On ██████████, the Michigan Department of Community Health Enrollment Services Section received a managed care exception request from the Appellant's medical provider, ██████████. On the request, the Appellant also noted that he receives treatment from multiple hospitals

doctor's offices and clinics. (Exhibit A, pages 7-8)

4. On ██████████, the Appellant's request for a managed care exception was denied. The denial notice indicated that the Appellant's request was not timely. However, the notice also indicated that ██████████ participates in the MHP the Appellant is currently enrolled in and that the specialists at the hospitals noted in the Appellant's managed care exception request accept referrals from this MHP. (Exhibit A, pages 9-10)
5. On ██████████, the State Office of Administrative Hearings and Rules for the Department of Community Health received the Appellant's request for an Administrative Hearing. (Exhibit A, 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 ██████████, 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.

MDCH Medicaid Provider Manual, Beneficiary Eligibility Section, January 1, 2010, page 30, 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:

- 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.

MDCH Medicaid Provider Manual, Beneficiary Eligibility Section, January 1, 2010, pages 30- 31, states in relevant part:

**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 Appellant's request for medical exception indicates he is receiving treatment for chronic and ongoing medical conditions including chronic heart problems, Marfan's syndrome, high blood pressure, and lumbar cervical radiculitis. The request also notes aortic artery surgery and that the Appellant is on blood thinners. [REDACTED] indicated that he participates in three MHPs and that he sees the Appellant for visits every 1-2 months. (Exhibit A, page 7)

The Department noted that the medical exception request was not submitted within the two month period allowed by the Medicaid policy. The Appellant has been enrolled in [REDACTED] since [REDACTED] but did not submit the medical exception request until [REDACTED] (Exhibit A, pages 7 and 9)

However, the Department did review the request and determined that the Appellant did not meet the criteria for a medical exception. (Exhibit A, pages 9-10) The Department confirmed that [REDACTED] does participate in several MHP's, including [REDACTED]. (Exhibit A, pages 11-12) The Department witness also testified that specialists from the hospitals listed in the Appellant's medical exception request do accept referrals from [REDACTED].

The Appellant testified that he understands now that specialists can be covered under the MHP. The Appellant stated that he is very ill and has another surgery coming up. The Appellant explained that he has had a hard time with the MHP such as getting refills for medications and going back to doctors. The Appellant stated that the hospitals have indicated some things will not be covered under this MHP and that his doctor does not always take [REDACTED].

The Department witness testified that the MHPs, such as [REDACTED], must provide the same services that would be available under the Fee-For-Services, or straight Medicaid. The Department witness suggested that the Appellant utilize a case manager, available through [REDACTED], to assist him with coordinating his health care needs.

This ALJ reviewed the evidence of record. The submitted documentation does not establish that the Appellant is receiving active treatment for a serious medical condition with a physician who does not participate in at least one MHP available to the Appellant. To the contrary, the evidence indicates that the Appellant is receiving treatment for chronic medical conditions from a doctor who does participate in the MHP the Appellant is enrolled in. The evidence does not establish that the Appellant meets all the criteria necessary to be granted a managed care exception.

**DECISION AND ORDER**

The Administrative Law Judge, 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:**

The Department's decision is AFFIRMED.

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Colleen Lack  
Administrative Law Judge  
for Janet Olszewski, Director  
Michigan Department of Community Health

cc: [REDACTED]

  
Docket No. 2010-23447 MCE  
Decision and Order

Date Mailed: 5/7/2010

**\*\*\* 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.