

**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. 2010-54984 DISC
Case No. ██████████

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 ██████████. ██████████ represented herself at hearing.

██████████, represented the Department. ██████████, appeared as a witness for the Department.

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 a ██████████ Medicaid Beneficiary who is enrolled in ██████████, a Medicaid Managed Health Care plan (MHP). She has been enrolled since at least ██████████.
2. On ██████████, the Department received the Appellant's Special Disenrollment-For Cause request, which indicates that she wants to switch health plans.

3. The Appellant asserts she is unable to obtain the gastric by-pass surgery she requires.
4. The Appellant did not submit any evidence that she is unable to access medical care, is not being provided necessary medical services or is undergoing frequent and active treatment for a serious medical condition.
5. On ██████████, the Department denied the request from the Appellant.
6. 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 from 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),
Fiscal year 2010*

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 7)

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 get the gastric bypass surgery she wants. The Appellant did not present evidence she had submitted or met the prior authorization criteria for the surgery.

The Department asserted at hearing the Appellant does not meet the for cause criteria necessary to be granted a special disenrollment and there is no evidence to refute the Department's position.

The Department's denial of the request for Special Disenrollment must be upheld. The Appellant failed to provide any evidence that she meets the eligibility criteria for a Special Disenrollment-For Cause. 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 May of next 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: 12/8/2010

***** 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.