STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

[redacted]

Docket No. 2011-11893 DISC
Case No. 79268372

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 [redacted], the Appellant, represented herself at hearing. [redacted], represented the Department. [redacted], appeared as a witness for the Department.

ISSUE

Did the Department properly deny the 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 [redacted] Medicaid beneficiary who has been enrolled in [redacted], a Medicaid Managed Health Care Plan (MHP), since [redacted]. (Exhibit A, page 11)

2. The Appellant is diagnosed with Bi-Polar disorder and testified that she has treated with her mental health services provider for [redacted] years. (Exhibit A, page 9 and testimony of Appellant)

3. The Appellant normally treats with her mental health services provider once every three months, according to her testimony. (testimony of Appellant)

4. Prescriptions for drugs treating mental health conditions are covered by Medicaid and excluded from coverage by the health plans who participate with Medicaid beneficiaries. (testimony of Department witness)

5. On [redacted], the Department's enrollment services section received the Appellant's Special Disenrollment For Cause Request, which indicates that she wants to switch out of [redacted] back to straight Medicaid to continue treatment with her current doctor, who she asserts does not accept [redacted]. (Exhibit A, page 8)

6. The Appellant's behavioral health provider is [redacted].

7. [redacted] is only contracted with [redacted] mental health services contractor, [redacted]. (Exhibit A, page 11)

8. On [redacted], the Department denied the Appellant's Special Disenrollment For Cause Request because the medical information provided was from a doctor who does participate with the MHP or accepts referrals and did not describe an access to care/services issue that would allow a change in health plans outside of the open enrollment period. (Exhibit A, pages 6 & 7)

9. On [redacted], the Department received the Appellant's request for a formal administrative hearing. (Exhibit A, page 5)

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:

Disenrollment Requests Initiated by the Enrollee

Disenrollment for Cause

> The enrollee may request that DCH 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 lack of access to providers or necessary specialty services covered under the Contract or concerns with quality of care. 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.
>
> *Comprehensive Health Care Program contract effective 10/1/2009 to 09/30/2010, Exhibit 1, page 19.*

In this case, the Department received Appellant's Special Disenrollment For Cause Request, which indicates that she wants to switch out of the MHP back to straight Medicaid because her doctor of [redacted] years does not participate with Medicaid. At hearing, the Appellant's testimony was not entirely clear. She stated her doctor's office told her they did not accept any type of Medicaid any longer but since she had an established relationship with the doctor they would continue to treat her. She said the doctor's office told her they never accepted [redacted] and in order to obtain treatment she had to switch back to another health plan or possibly straight Medicaid. She was asked to clarify her testimony and reiterated the same statements. It is not entirely clear to his ALJ if the Appellant is stating she wants out of a health plan all together (straight Medicaid) or if she wants to switch back the plan she had prior to enrolling in [redacted] in [redacted]. In any event, she must establish she has met the criteria for disenrolling in a health plan at a time when open enrollment is not in effect.

The Appellant is able to switch health plans for any reason, or no reason during open enrollment time, May of each year. Outside of open enrollment, she must meet the criteria set forth in the Department's Exhibit A at pages 13-17. In short, she must establish she has been unable to access care she requires or that she is undergoing active treatment for a serious medical condition with a doctor who does not participate in her health plan. The evidence of record establishes her mental health provider is contracted with [redacted]. [redacted] is the mental health services provider for [redacted] beneficiaries. Therefore, according to Department records, she does have access to the health care provider she seeks to remain in treatment with. Additionally, her testimony that she treats with this provider normally one time every 3 months does not establish she satisfies the criteria for active treatment of a serious medical condition. She has not presented any evidence she cannot access the medical

treatment she requires. Her desire to remain in treatment with her established mental health services provider is understandable, however, in addition to the fact that she is still able to do so, her preference of provider is an insufficient basis to authorize disenrollment outside of the open enrollment period in May of each year. The Appellant is free to change health plans for any or no reason at all in [redacted].

The Department's denial of the request for special disenrollment must be upheld.

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 Olga Dazzo, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 2/24/2011

***** 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.