

**STATE OF MICHIGAN**  
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**  
**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. 2011-17222 DISP  
Case No. ██████████

**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.

After due notice, a hearing was held on ██████████, Appellant, appeared on his own behalf. ██████████ represented the Department. ██████████, 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 ██████████?

**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 ██████████. The Appellant was enrolled in the ██████████, his last day of enrollment ██████████.
2. The Michigan Department of Community Health contracts with the ██████████ to provide State Medicaid Plan services to the Appellant and other enrolled beneficiaries.
3. On ██████████, the Department of Community Health Enrollment Services Section received a For Cause Request for Special Disenrollment from the ██████████ for actions inconsistent with the ██████████ membership. (Department Exhibit 1, Page 7). The ██████████ request had attached documentation of alleged violent/threatening behavior. (Department Exhibit 1, Pages 5-15).

4. The Department reviewed the Appellant's ██████ request and granted the ██████ disenrollment request. Written notice of the denial was sent to the Appellant on ██████████. The notice stated the disenrollment was "due to actions inconsistent with plan membership, alleged threatening behavior." (Department Exhibit 1, Page 6).
5. The Department received the Appellant's Request for Administrative Hearing on ██████████. (Exhibit 1, Page 4).

### **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 (CMS) 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 ██████████ to provide State Medicaid Plan services to enrolled beneficiaries. The Department's contract with the ██████ 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 ██████ 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 witness testified that a health plan may disenroll a member if the member's behavior is inconsistent with health plan policy. The Department's evidence established that behavior inconsistent with policy includes threats of violence.

The Department's witness ██████████ credibly testified that when she received the ██████████ Request for Special Disenrollment she reviewed the request in light of the evidence supplied by the ██████████. The Department's witness applied the law to the evidence and determined the disenrollment was due to actions inconsistent with plan membership; specifically that Appellant's statement to an ██████████ representative "if a UPS Driver attempts to deliver supplies to my property I will shoot them" constitutes a threat of violence. (Department Exhibit 1, Page 8).

The Appellant did not deny making threats to the diabetic supply provider. The Appellant testified that he was trying to get the medical supplier to have the delivery service require a signature upon delivery. The Appellant stated as a reason he shouldn't be disenrolled was because he did not directly make threats to the ██████████  
██████████

The ██████████ 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).

The evidence of record supports the ██████████ request and the Department's grant of For Cause Special Disenrollment for Appellant due to actions inconsistent with plan membership, specifically alleged threatening behavior, 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.

[REDACTED]  
Docket No. 2011-17222 DISP  
Decision and Order

**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 [REDACTED] request for Appellant's for cause special disenrollment.

**IT IS THEREFORE ORDERED** that:

The Department's decision is AFFIRMED.

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Lisa K. Gigliotti  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 5/5/2011

**\*\*\* NOTICE \*\*\***

The Michigan Administrative Hearing System 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 Michigan Administrative Hearing System 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.