STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
BENEFIT SERVICES DIVISION
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

[redacted].

Docket No. 2011-30697 MCE
Case No. 22732662

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]. Appellant, [redacted] was present and presented testimony. [redacted], Appeals Review Officer, Department of Community Health, represented the Department. [redacted], Enrollment Services Specialist, appeared as a witness for the Department.

ISSUE

Did the Department properly deny Appellant's request for exception from Managed Care Program enrollment?

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 [redacted] year-old Medicaid beneficiary. (Exhibit 1, p 7)

2. The Appellant voluntarily enrolled in the [redacted] Michigan health plan since at least [redacted], and thus for more than two months. (Exhibit 1, p 17)

3. During open enrollment, Appellant switched to Health Plan of Michigan, effective [redacted]. (Testimony)

4. On [redacted], the Department received the Appellant's Medical Exception request and supporting medical documentation. (Exhibit 1, pp 7-14). A

Department physician reviewed the request.

5. On [redacted], Appellant's request for a managed care exception was denied because Dr [redacted], who completed the exception form, is a MHP participating physician and because the Appellant exceeded the two-month time limitation for medical exceptions. (Exhibit 1, pp 15-16).

6. On [redacted], Appellant was sent notification of the exception denial. (Exhibit 1, pp 15-16).

7. On [redacted], the Tribunal received the Appellant's Request for Administrative Hearing. (Exhibit 1, p 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 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.

Michigan Public Act 154 of 2006 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 managed care 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, 2011, page 31 states in relevant part:

> The intent of a medical exception 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 was 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 available only 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: (Underline added).

- 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, whichever occurs first.

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. (Underline added).

MDCH Medicaid Provider Manual, Beneficiary Eligibility Section, January 1, 2011, pages 31 and 32 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

Fluctuate 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 or she is in the MHP provider network or is available on an out-of-network basis with one of the MHPs for 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. (Exhibit 1, p 20). (Underline added).

The Appellant must meet all of the conditions outlined in the law to be granted an exception.

With regard to the Appellant not meeting the two-month or less exception criterion, the Appellant admitted that he had been enrolled in a managed care plan since [redacted] and that he did not file for exception until [redacted]. However, Appellant indicated that he recently moved from [redacted] County to [redacted] County and that he had been advised to file this appeal anyway. [redacted] testified that Appellant moving could restart the 2 month period to file for an exception and she advised Appellant to file for an exception if he establishes with a new doctor in [redacted] County who does not participate with one of the Medicaid managed care plans. [redacted] did testify that most doctors in [redacted] County do participate with Medicaid managed care plans.

With regard to the Appellant not meeting the non-participating provider exception criterion the Department provided credible evidence that Dr. [redacted], who filled out the medical exception form, was a participating physician.

By a preponderance of the evidence, the Department demonstrated that the Appellant did not meet all of the criteria necessary for a managed care exception. For the reasons stated above, the request for exception from Medicaid Managed Care was properly denied.

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.

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

cc: [redacted]

Date Mailed: 11/29/2011

***** 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.