

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

IN THE MATTER OF:

██████████

Docket No. 2012-30697 MCE
Case No. ██████████

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.* and upon Appellant's request for a hearing with respect to the Department's denial of exception from Medicaid Managed Care Program enrollment.

Appellant's appeal was first scheduled for hearing on ██████████. However, Appellant requested an adjournment and the matter was rescheduled. (Exhibit 1, pages 4-6). After due notice, a hearing was held on ██████████.

Appellant appeared and testified on his own behalf ██████████, Appellant's sister, and ██████████ ██████████, Appellant's mother, also testified as witnesses for Appellant. ██████████ Medical Exception and Special Disenrollment Program Specialist, appeared and testified on behalf of the Michigan Department of Community Health.

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. Appellant is a ██████ year-old male who has been diagnosed with, among other conditions, a spinal cord injury. (Exhibit 1, pages 8, 12).

2. Appellant previously had private insurance, but is now in the mandatory population to enroll in a Medicaid Health Plan (MHP). (Testimony of Appellant; Testimony of ██████████).

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3. On [REDACTED] the Department received Appellant's Medical Exception request and supporting medical documentation. (Exhibit 1, pages 8-14).
4. A Department physician reviewed the request and, on [REDACTED] Appellant's request for a managed care exception was denied. The reason given in the denial was that Appellant's doctors are MH P participating physicians and that the documentation submitted did not describe the active treatment necessary for a medical exception. (Exhibit 1, pages 15-18).
5. On [REDACTED] Appellant was sent notification of the exception denial. (Exhibit 1, pages 15-16).
6. On [REDACTED] the Michigan Administrative Hearing System (MAHS) received Appellant's Request for Administrative Hearing. (Exhibit 1, page 7).

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.

Similarly, the MDCH Medicaid Provider Manual, Beneficiary Eligibility Chapter, April 1, 2012, pages 37-38, states in the 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.

The MDCH Medicaid Provider Manual, Beneficiary Eligibility Chapter, April 1, 2012, pages 37-38, also states in the 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. (Underline added by Administrative Law Judge)

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

With regard to Appellant not meeting the non-participating provider exception criterion, the Department provided credible evidence that both ██████████ and ██████████ who filled out the medical exception form, were participating physicians. Appellant also concedes that he has no evidence to the contrary.

With regard to Appellant not meeting the active treatment requirement, the Department correctly notes that the documentation submitted by Appellant failed to meet the criteria for active treatment. ██████████ wrote that he sees Appellant 2-4 times a year while ██████████ sees Appellant 4-6 times a year. As described above, the exception requires that the Appellant be seen regularly, (e.g., monthly or more frequently).

By a preponderance of the evidence, the Department demonstrated that 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.

Steven Kibit

Steven Kibit
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Mailed: 9/19/2012

***** 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.