

**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. 2012-7208 MCE

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 appealing the Department's denial of exception from Medicaid Managed Care Program enrollment.

After due notice, a hearing was held on ██████████. ██████████, Social Worker, appeared on behalf of the Appellant. ██████████, Medical Exception Specialist/MDCH/MSA represented the Department. She had no witnesses.

**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 disabled, ██████-year-old Medicaid beneficiary. (Appellant's Exhibit #1)
2. The Appellant resides in ██████████ Michigan. (Appellant's Exhibit #1)
3. The Appellant is in that population required to enroll in a Medicaid Health Plan (MHP). (Department's Exhibit A, p. 2)
4. The Appellant is currently enrolled as a Fee-For-Service (FFS) Medicaid recipient and remains so enrolled during the pendency of this appeal. (Department's Exhibit A, p. 2)
5. On ██████████, the Michigan Department of Community Health



The Medicaid Provider Manual (MPM), Beneficiary Eligibility §9.3, January 1, 2012, 2010, page 37, states:

The intent of the medical exception process is to preserve continuity of medical care for a beneficiary who is receiving active treatment for a serious medical condition from an attending physician who would not be available to the beneficiary if the beneficiary is 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 only available 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:

- 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.

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 MPM also states at pp. 37-38:

### **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

Fluctuates 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 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 is in the MHP provider network or is available on an out-of-network basis with one of the MHPs with 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.

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The Appellant seeks medical exception owing to her diagnosis of metabolic syndrome and her comfort level with her physician.

Her representative argued that the Appellant believes she would be better serviced in the FFS community and that the Appellant has anxiety with the idea of participation in the HMO system. She said that the entire array of medical providers currently treating the Appellant did not all participate in Medicaid managed care.

The Appellant testified in closing that she was delaying a heart catheterization procedure owing to this appeal.

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The Department witness, ██████████ testified that the Department would review another exception request if the Appellant brought such a request. She added that the Appellant's request was denied because the physician sought by the Appellant was a participating member in several health plans available to the Appellant and that her physical condition, while not insignificant, was described by her own physician as "chronic." Accordingly, her petition lacked the urgency of one afflicted with a serious medical condition undergoing active medical treatment. ██████████ added that to be eligible for a medical exception the Appellant must demonstrate satisfaction of all three (3) statutory criteria: seriousness, active treatment and a non-participating physician. *Supra.*

On review, I gave the testimony of Department witness ██████████ controlling weight. She clearly explained that the Appellant failed to qualify for medical exception and that appropriate treatment could be received within a MHP from the very physician she desired to control her medical treatment.

The Appellant failed to preponderate her burden of proof.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for exception from managed care.

**IT IS THEREFORE ORDERED** that:

The Department's decision is **AFFIRMED**.

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Dale Malewska  
Administrative Law Judge  
for Olga Dazzo, Director  
Michigan Department of Community Health

cc: ██████████

Date Mailed: 1/26/2012

**\*\*\* 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.