

**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) 373-4147

IN THE MATTER OF:

██████████,

Appellant

Docket No. 2013-13554 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 of Community Health (Department's) denial of an exception from Medicaid Managed Care Program enrollment.

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

ISSUE

Did the Department properly deny the Appellant's request for an 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 ██████-year-old Medicaid beneficiary. (uncontested).
2. The Appellant resides in Macomb County, Michigan. She is enrolled in the Children's Special Health Care Services (CSHCS) which, effective ██████████, is now part of the mandatory population to enroll in a Medicaid Health plan.
3. On ██████████, the Michigan Department of Community Health Enrollment Services Section received several managed care exception requests from the Appellant's doctors.

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4. ██████████, ██████████, ██████████, ██████████ and ██████████ all participate in several Medicaid Health Plans including Meridian Health Plan of Michigan, Molina Healthcare of Michigan, and Midwest Health Plan which are all Medicaid health plans available to the Appellant. The specialists at ██████████ of Detroit will accept referrals from all Medicaid Health Plans.
5. On ██████████, the requests for a medical exception was denied and on ██████████, the Department sent the Appellant's ██████████ written notice that her requests for a medical exception was denied. (uncontested).
6. On ██████████, the Michigan Administrative Hearing System received the Appellant's request for an administrative hearing.
7. On ██████████, the Appellant's request for Managed Care Exception was reviewed by MSA Chief Medical Officer, ██████████ ██████████, M.D. ██████████ agreed with the Department decision to deny the Appellant's managed care exception requests. (uncontested).

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 ██████████, 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 131 of ██████████ 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 mandatory enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

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The Medicaid Provider Manual (MPM), Beneficiary Eligibility §9.3, [REDACTED], 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.

The undisputed evidence shows that the Appellant has a serious medical condition as set forth in the above referenced portion of the Medicaid Provider Manual. The criteria for a managed care exception has 3 criteria which all must be satisfied before it may be granted by the Department. Although the Appellant does have a serious medical condition, all of the providers who submitted documentation in support of the request participate in at least one common Medicaid Health plan available to the Appellant. The

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Department records established they all participate with Meridian Health Plan of Michigan, Molina Healthcare of Michigan, and Midwest Health Plan and that the specialists at [REDACTED] of Detroit will accept referrals from all Medicaid Health Plans. Because all the known providers participate or will accept referrals from all Medicaid Health Plans, the Appellant does not satisfy the criteria contained in Department policy.

The Appellant did not contest the Department's evidence concerning the fact that the providers who filed for the exception participate in at least one common Medicaid Health plan available to the Appellant, or will accept referrals from All Medicaid Health Plans. Her representative did raise questions concerning the frequency of treatment criteria, when considering some of the doctors were engaging in a team approach with her treatment. However, the Department's representative pointed out that the reason for the denial was the fact that all of her known providers participate with at least one common health plan. And since the Appellant cannot satisfy all three of the required criteria, the frequency of the treatment would not change the Department's decision in this case.

The Appellant's representative also raised some concerns with the ability to get timely referrals when the Appellant's condition might warrant more immediate action. The Appellant's representative was advised at the hearing that once the Appellant is enrolled in a Medicaid health Plan they may obtain the assistance of a nurse case manager to assist if they should experience problems with getting needed referrals.

The uncontested, material evidence of record does not establish that the Appellant satisfies all the Department criteria to be granted a managed care exception. All her known providers participate with at least one common health plan. Therefore the Department properly concluded that the Appellant is not eligible for an exception from managed care.

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 an exception from managed care.

IT IS THEREFORE ORDERED that:

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

/s/

William D. Bond
Administrative Law Judge
for James Haveman, Director
Michigan Department of Community Health

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cc:

[REDACTED]

Date Mailed: February 4, 2013

***** 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.