

**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. 2013-51468 DISC
Case No. ██████████

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) 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 ██████████. ██████████, the Appellant, appeared on his own behalf. ██████████, Medical Exception and Special Disenrollment Program Specialist, represented the Department.

ISSUE

Did the Department properly deny Appellant's request to receive a Special Disenrollment-For Cause from a Managed Care Program?

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 who was enrolled in McLaren Health Plan, a Medicaid Health Plan ("MHP"), from ██████████ to ██████████. During open enrollment, the Appellant changed to Meridian Health Plan of Michigan, which was effective ██████████. (Exhibit 1, pages 2, 10 and 11)
2. The Appellant resides in ██████████, Michigan and is a member of the population required to enroll in an MHP.
3. On ██████████, the Department's enrollment services section received the Appellant's Special Disenrollment-For Cause Request, indicating that he wants to change out of McLaren Health Plan to straight Medicaid. No

additional documentation from the Appellant's doctor(s) was attached. (Exhibit 1, pages 11-18)

4. On ██████████, McLaren Health Plan provided a response to the Appellant's request for a special disenrollment stating they have made many attempts to assist the Appellant, but he is not willing to see practitioners outside of ██████████ County because he cannot travel even with transportation assistance. The Appellant also refuses to see the behavioral health providers contracted with the MHP or through the Community Mental Health ("CMH") system. The Appellant has refused to see his primary care physician since ██████████. The Appellant has been sent lists of other primary care providers in his county so that he could choose a new primary care physician. The MHP also tried to assist in getting the Appellant care at ██████████'s chemical poisoning department but the Appellant refused to listen to the MHP's suggestions or accept any assistance from the MHP. (Exhibit 1, page 19)
5. On ██████████, the Department denied the Appellant's Special Disenrollment-For Cause request because there was no medical information provided from a doctor that does not work with the MHP or an access to care/services issue described that would allow for a change to Fee-For-Service Medicaid. (Exhibit 1, page 10)
6. On ██████████, the Appellant's request for a formal administrative hearing was received by the Michigan Administrative Hearing System. (Exhibit 1, pages 7-9)

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.

The Department of Community Health, pursuant to the provisions of the Social Security Act Medical Assistance Program, contracts with the Medicaid Health Plan (MHP) to provide State Medicaid Plan services to enrolled beneficiaries. The Department's contract with the MHP specifies the conditions for enrollment termination as required under federal law:

C. Disenrollment Requests Initiated by the Enrollee

(2) Disenrollment for Cause

The enrollee may request that DCH review a request for disenrollment for cause from a Contractor's plan at any time during the enrollment period to allow the beneficiary to enroll in another plan. Reasons cited in a request for disenrollment for cause may include:

- Enrollee's current health plan does not, because of moral or religious objections, cover the service the enrollee seeks and the enrollee needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time; not all related services are available within the network; and the enrollee's primary care provider or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk.
- Lack of access to providers or necessary specialty services covered under the Contract. Beneficiaries must demonstrate that appropriate care is not available by providers within the Contractor's provider network or through non-network providers approved by the Contractor.
- Concerns with quality of care.

*Comprehensive Health Care Program
Contract No. 071B02000
FY2013, Print Version January 18, 2013
(Exhibit 1, pages 22-23)*

In this case, the Department received Appellant's Special Disenrollment-For Cause Request indicating that he wants to change out of McLaren Health Plan to straight Medicaid. No additional documentation from the Appellant's doctor(s) was attached. (Exhibit 1, pages 11-18) The Medical Exception and Special Disenrollment Program Specialist noted that the first page of the Special Disenrollment-For Cause form provides the instructions for completing the form and what supporting medical information is needed, including documentation from the doctor's office. (Exhibit 1, page 21)

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In reviewing the Appellant's Special Disenrollment-For Cause Request, the Department contacted McLaren Health Plan. On ██████████, McLaren Health Plan provided a response to the Appellant's request for a special disenrollment stating they have made many attempts to assist the Appellant, but he is not willing to see practitioners outside of ██████████ County because he cannot travel even with transportation assistance. The Appellant also refuses to see the behavioral health providers contracted with the MHP or through the CMH system. The Appellant has refused to see his primary care physician since ██████████. The Appellant has been sent lists of other primary care providers in his county so that he could choose a new primary care physician. The MHP also tried to assist in getting the Appellant care at ██████████'s chemical poisoning department but the Appellant refused to listen to the MHP's suggestions or accept any assistance from the MHP. (Exhibit 1, page 19)

The Appellant included lab results with his hearing request but this was not sufficient to change the Department's determination. (Exhibit 1, pages 8-9) The Medical Exception and Special Disenrollment Program Specialist stated that the Appellant's request was reviewed by the Department's Chief Medical Director, who agreed the denial was appropriate because there was no physician documentation to support an access to care or services issue or the inability of the MHP to make arrangements for care and the MHP has specialists either in network or can refer out of network for treatment. (Exhibit 1, page 20)

The Appellant's testimony indicates he is pursuing a Medicaid fraud claim regarding the MHP and the CMH. The Appellant asked if he would be allowed to have straight Medicaid if he could prove the Medicaid fraud. (Appellant Testimony)

Medicaid fraud is a separate issue from the Department's denial of the Appellant's Special Disenrollment-For Cause Request to change to straight Medicaid. This ALJ has no authority to review the Medicaid fraud allegation nor to base an approval of the Appellant's request to have straight Medicaid if he can prove Medicaid fraud was committed by the MHP and/or the CMH. The scope of this hearing is limited to reviewing the Department's determination to deny the Appellant's Special Disenrollment-For Cause Request to change to straight Medicaid under the above cited criteria.

The Department properly determined that the Appellant does not meet the for cause criteria necessary to be granted a special disenrollment based on the available information. There was no physician documentation to support an access to care or services issue or the inability of the MHP to make arrangements for care. Rather, the MHP's response indicates they have attempted to work with the Appellant and there are primary care physicians and specialists available to the Appellant through the MHP. (Exhibit 1, page 19) The evidence did not show that after working with the MHP, the Appellant is unable to get care for his condition(s) through the MHP. The Appellant has

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access to providers and/or necessary specialty services with the MHP and no quality of care issues were documented. The Department's denial of the request for a special disenrollment for cause must be upheld.

Further, the Appellant has already requested a change of health plans without cause and without providing documentation of reason or need during the annual open enrollment. The Appellant's enrollment with the new MHP began [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied Appellant's request to receive a Special Disenrollment-For Cause from a Managed Care Program.

IT IS THEREFORE ORDERED that:

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

lsj

Colleen Lack
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: August 13, 2013

Date Mailed: August 13, 2013

[REDACTED]
cc: [REDACTED]

***** 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.