

**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

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Docket No. 2013-53559 MCE

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.*, and 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 ██████████. Appellant appeared and testified on her own behalf. ██████████, Medical Exception and Special Disenrollment Program Specialist, represented the Department of Community Health.

**ISSUE**

Does the Appellant meet the requirements for a managed care exception?

**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 enrolled in the Adult Benefits Waiver (ABW). (Medical Exception and Special Disenrollment Program Specialist Testimony).
2. Appellant resides in ██████████, Michigan and, since ██████████, has been enrolled in the ██████████ Patient Care Management System, the contracted County Health Plan for ██████████. (Medical Exception and Special Disenrollment Program Specialist Testimony).
3. On ██████████, the Michigan Department of Community Health Enrollment Services Section received three managed care exception requests from Appellant. (Respondent's Exhibit A, pages 13-19).

4. On ██████████, the Department sent Appellant written notice that the requests for managed care exceptions were denied. (Respondent's Exhibit A, page 11-12).
5. With respect to the reason for the denial, the notice specifically provided:

What your doctor sent in describes standard treatment for a chronic on-going medical condition(s) or the routine monitoring of an on-going medical condition(s). It does not describe a condition that would allow a medical exception at this time. [Respondent's Exhibit A, page 11.]
6. On ██████████, the Michigan Administrative Hearing System (MAHS) received a Request for Hearing filed by Appellant. (Respondent's Exhibit A, pages 7-10)

### **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 131 of 2009 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.

The Department's Medicaid Provider Manual, April 1, 2013 version, Beneficiary Eligibility Chapter, pages 37-38, states in relevant part:

### **9.3 Medical Exceptions to Mandatory Enrollment**

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 (M.D. or D.O.) 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.

If a beneficiary is enrolled in a MHP, and develops a serious medical condition after enrollment, the medical exception does not apply. The beneficiary should establish relationships with providers within the plan network who can appropriately treat the serious medical condition.

#### **9.3.A Definitions**

##### **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 (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 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.

Here, Appellant's requests for a medical exception include documentation demonstrating that she has suffered from severe back pain for several years, and has gone through multiple surgeries and courses of physical therapy due to that pain. The pain radiates to her legs and neck. Appellant also suffers from carpal tunnel syndrome.

In the requests themselves, Appellants states that she would like to continue treatment for those medical problems with doctors that she is familiar with.

The Medical Exception and Special Disenrollment Program Specialist explained that medical exception requests were denied because an applicant must meet all of the conditions outlined in the law to be granted an exception and, in this case, Appellant failed to demonstrate that she has a serious medical condition. While Appellant does have significant back problems, those issues only require standard treatment or routine monitoring. Her medical conditions are not grave, complex, or life-threatening.

While this Administrative Law Judge understands Appellant's concerns about switching doctors, the request for a medical exception must be reviewed under the above cited policy and Appellant bears the burden of proving by a preponderance of the evidence that the Department erred in denying her request.

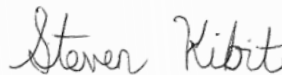
Here, this Administrative Law Judge has reviewed the evidence of record and that evidence does not establish that the Appellant is currently receiving frequent and active treatment for a serious medical condition with a doctor who does not participate with Appellant's County Health Plan, as those terms are defined in the Medicaid Provider Manual policy. Accordingly, the Department's determination that the Appellant did not meet the criteria necessary to be granted a managed care exception must be upheld.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Appellant does not meet the criteria for Medicaid Managed Care exception.

### **IT IS THEREFORE ORDERED THAT:**

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



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

[REDACTED]  
Docket No. 2013-53559 MCE  
Decision and Order

Date Signed: 8/30/2013

Date Mailed: 8/30/2013

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.