



Services Program (CMHSP) in your county takes care of serious mental health conditions. You, or your doctor, can ask for the health plan or the CMHSP to help you get care.

The information from ██████████ did not describe her active treatment of a serious medical condition but referral to specialists for what could be a potentially serious medical conditions [sic].

What ██████████ describes with documentation appears to be the monitoring of chronic conditions. The health plans have specialists available to treat the medical conditions listed in request including rheumatologist, pulmonologist, mental health and pain management providers.

*Respondent's Exhibit A, page 9*

5. On ██████████, the Michigan Administrative Hearing System received a request for hearing filed by Appellant with respect to that denial. (Respondent's Exhibit A, 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.

However, policy does identify exceptions to the requirement that medical services only be obtained through the specified health plans. The MDCH Medicaid Provider Manual, Beneficiary Eligibility Chapter, July 1, 2013 version, page 42, states in the relevant part:

### **9.3 MEDICAL EXCEPTIONS TO MANDATORY ENROLLMENT**

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

**Decision and Order**

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:

- 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.

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.

The MDCH Medicaid Provider Manual, Beneficiary Eligibility Chapter, July 1, 2013 version, pages 42-, also states in the relevant part:

**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

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.

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

Here, the Department denied Appellant’s request because the submitted information did not demonstrate that ██████████ was actively treating Appellant for any serious medical conditions. The request does identify some general health issues, including an abnormal chest CT scan; severe osteoarthritis; and arthralgias. However, there is no documentation suggesting that those conditions are grave, complex or life threatening, or that they manifest symptoms needing timely intervention in order to prevent complications or permanent impairment. Moreover, to the extent the diagnoses could be deemed serious, ██████████’ treatment consisted of referring Appellant to specialists or monitoring chronic conditions.

██████████  
Docket No. 2013-60233 MCE

**Decision and Order**

Appellant has also been diagnosed with bipolar disorder, anxiety, and depression. However, as testified to by the Department's witness and explained in policy, to the extent those conditions are serious, treatment for them would be the responsibility of the local Prepaid Inpatient Health Plan (PIHP) or Community Mental Health Services Program (CMHSP). See MPM, July 1, 2013 version, Mental Health/Substance Abuse Chapter, page.

In response, Appellant testified that she has had difficulties finding an adequate primary care physician in the past and that she has been very satisfied since ██████████ became her doctor. In particular, she notes that ██████████ has diagnosed Appellant with conditions that previous doctors had missed. Appellant is seen by ██████████ monthly and Appellant is very comfortable with her.

However, while Appellant may be comfortable with the primary care physician she has been using and satisfied with the treatment she has received, that comfort and satisfaction do not meet the criteria for an exception from Medicaid Managed Care.

Appellant must demonstrate that she meets all of the criteria for such an exception and, in this case, the documentation submitted failed to even suggest that she has a serious medical condition for which she is receiving active treatment from an attending physician who would not be available if Appellant was enrolled in a MHP.

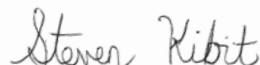
Accordingly, Appellant has failed to meet her burden of proof and the Department's decision to deny the request for a managed care exception must be sustained.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly denied Appellant's request for an exception from Managed Care Program enrollment.

**IT IS THEREFORE ORDERED THAT:**

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



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

Date Signed: 9/30/2013

Date Mailed: 10/1/2013

██████████

**Docket No. 2013-60233 MCE**  
**Decision and Order**

CC:

**\*\*\* 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.