

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. 2013-66654 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 ██████████. The Appellant appeared and offered testimony. ██████████, medical exception specialist/MDCH represented the Department.

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 █████ year-old Medicaid beneficiary. (Exhibit A, pp. 2, 24)
2. The Appellant resides in ██████████, Michigan. She is a member of the population required to enroll in a Medicaid Health Plan (MHP). (Exhibit A, p. 2 and Testimony)
3. The Appellant has been enrolled in ██████████ Health Plan since ██████████. (Exhibit A, p. 2)

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4. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section received a managed care exception request from the Appellant for a [REDACTED]. (Exhibit A, p. 8)
5. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section received two managed care exception requests from the Appellant for a [REDACTED] and a [REDACTED]. (Exhibit A, pp. 9-12, 14)
6. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section received two managed care exception requests from the Appellant for a [REDACTED] and a [REDACTED]. The [REDACTED] request was for optometry services. (Exhibit A, pp. 13, 18)
7. On or around [REDACTED], the Appellant's [REDACTED], [REDACTED] and [REDACTED] requests for managed care exceptions were denied. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section sent the Appellant notification of the denial. (Exhibit A, pp. 20, 21)
8. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section received a managed care exception request from the Appellant for a [REDACTED]. (Exhibit A, p. 22)
9. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section received a managed care exception request from the Appellant for a [REDACTED]. (Exhibit A, pp. 23-26)
10. On [REDACTED], the Michigan Administrative Hearing System for the Michigan Department of Community Health received the Appellant's request for hearing. (Exhibit 1, p. 1)
11. On or around [REDACTED], the Appellant's [REDACTED] and [REDACTED] requests for managed care exceptions were denied. On [REDACTED], the Michigan Department of Community Health Enrollment Services Section sent the Appellant notification of the denial. (Exhibit A, pp. 28, 29)
12. On [REDACTED] the Appellant's then existing medical exception case file was reviewed by Michigan Department of Community Health Chief Medical Director, [REDACTED], M.D. who upheld the Department's decision to deny the Appellant's request. (Department's Exhibit A, p. 30 and Testimony)

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13. Dr. ██████████, Dr. ██████████, Dr. ██████████ and Dr. ██████████ are all ██████████ specialists who accept referrals from all of the health plans. (Department Exhibit A, pp. 2, 8, 9, 12, 13, 22, 23)
14. Dr. ██████████ is not a treating physician, M.D. or D.O. (Exhibit A, p. 18)
15. The ██████████ Health Plan offers optometry services. (Department Exhibit A, p. 2)
16. The information submitted by the exception seeking physicians did not describe active treatment on a frequency of monthly or more. (Exhibit A, pp. 8-14, 18, 22-26)

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 Medicaid Provider Manual (MPM), Beneficiary Eligibility §9.3, April 1, 2013, 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.

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 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 (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.

The Appellant seeks a medical exception to receive straight Medicaid. (Exhibit 1) The Appellant sought the medical exception by submitting numerous medical exceptions requests for various medical providers from the ██████████ and one optometrist in the ██████████ area.

The Department's representative explained that due to the Appellant's residence in ██████████ County it was mandatory for her to enroll in a Medicaid health plan. Enrollment in managed care in no way represents a denial or limitation of a consumer's Medicaid – as the MHPs are contractually obligated to provide identical services as supplied under the Fee For Services system. (Testimony)

The Department's representative testified as to the reasons why the Appellant's requests were denied. The Department's representative indicated the Doctors involved were all participating specialists with the ██████████; each of whom accept referrals from the Appellant's health plan. Additionally, the Department's representative

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indicated that optometry services were available to the Appellant through her health plan and that the frequency of visits described in each of the requests did not meet the monthly or more frequent active treatment criterion to allow for a medical exception.

The Michigan Department of Community Health Chief Medical Officer, [REDACTED], agreed with the Department reviewer and her conclusion that the Appellant's case did not present with the required frequency and the medical information was from physicians who participate or accept referrals from health plans available to the Appellant.

This hearing is limited to reviewing whether the Appellant met the criteria for a medical exception. The evidence of record has been reviewed. Accordingly, the evidence does not establish that the Appellant meets the criteria necessary to be granted a managed care exception at this time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the 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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Corey A. Arendt
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc: [REDACTED]

Date Signed: October 18, 2013

Date Mailed: October 18, 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.