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:

Docket No. 14-009238 DIS

Appellant
_______________________/

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 Appellant's request for a hearing.

After due notice, a hearing was held on Appellant's payee and Authorized Hearing Representative, appeared and testified on Appellant's behalf. , Medical Exception and Special Disenrollment Program Specialist, represented the Department of Community Health.

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. Appellant is a year-old Medicaid beneficiary who is a member of the mandatory population required to enroll in a Medicaid Health Plan ("MHP"). (Respondent's Exhibit A, page 7; Testimony of

2. Appellant has been enrolled in the MHP of of since (Testimony of Appellant's representative; Testimony of .

3. In , the Department's enrollment services section received a Special Disenrollment-For Cause Request submitted by Appellant. (Respondent's Exhibit A, page 7).

4. The request indicated that Appellant has a disability, but her doctor does not give her the medications she needs and never refers her to specialists. (Respondent's Exhibit A, page 7).

5. The request also indicated that Appellant wished to enroll with t and have as her primary care physician. (Respondent's Exhibit A, page 7).

6. The Department sent Appellant's request to for a review and response. (Respondent's Exhibit A, page 8; Testimony of).

7. On , submitted its response to the Department, in which it stated that is a contracted provider with and has now been assigned as Appellant's primary care physician. (Respondent's Exhibit A, page 8).

8. On , the Department sent Appellant a written denial of the Special Disenrollment for Cause Request. (Respondent's Exhibit A, page 6).

9. Specifically, that notice of denial stated:

> Your request has been denied for the following reason(s):
>
> There was no medical information provided from your doctor or access to care/services issue described that would allow for a change in health plans outside of the open enrollment period. Our records show that you have been enrolled in since of has changed you to the primary care provider you wanted and is in network with the health plan. In addition, has several primary care providers and specialists available to treat you within their network of contracted doctors. You can call at if you have any questions, need held finding a doctor or if you need help making arrangements for specialty care or services.

Respondent's Exhibit A, page 6

10. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed in this matter. (Respondent's Exhibit A, page 5).

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 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, pages 21-22[1]

Here, the Department received Appellant's Special Disenrollment-For Cause Request indicating that the Appellant wanted to change health plans because of she was not satisfied with her current primary care physician. The request also identified the plan that Appellant would like to switch to as well as the primary care physician participating in that plan that Appellant would like to see.

In reviewing the Appellant's Special Disenrollment-For Cause Request, the Department contacted [redacted] and [redacted] submitted its response to the Department. As part of that response, [redacted] wrote that the Appellant wanted to switch to a new primary care physician and that primary care physician is a contracted provider with [redacted] [redacted] also indicated that it has switched Appellant to the requested primary care physician.

Subsequently, the Department determined that the Appellant did not meet the for cause criteria necessary to be granted a special disenrollment because there was no medical information provided or access to care/services issue described that would allow for a change in health plans outside of the open enrollment period.

Appellant bears the burden of proving by a preponderance of the evidence that Department erred in denying her disenrollment request. In this case, for the reasons discussed below, Appellant has failed to meet that burden of proof.

As noted by the Department's representative, Appellant can always request a change of health plans without cause and without providing documentation of reason or need during the next annual open enrollment period.

Outside of open enrollment period, however, she must meet the criteria set forth in the contract. In short, she must establish she has been unable to access care she requires or that she is undergoing active treatment for a serious medical condition with a doctor who does not participate in her health plan.

[1] The relevant portion of the contract was admitted as part of Respondent's Exhibit A, pages 14-15.

In this case, Appellant's representative failed to establish that Appellant meets the above criteria. Appellant's representative testified that Appellant has never picked her own plan because her past payees always did it for her and Appellant now wants the opportunity to pick her own plan and have the same doctor as her current payee. However, any disagreement between Appellant and her past payees is outside of the undersigned Administrative Law Judge's jurisdiction and it is undisputed that the Department offered Appellant yearly opportunities to pick a new plan, as it was required to. Moreover, to the extent Appellant simply wants to switch primary care physicians, the requested physician is a contracted provider with [redacted] and Appellant has already been reassigned to him.

Accordingly, based on the available information, the Department's denial of the request for special disenrollment 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 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**.

Steven Kibit

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of Community Health

Date Signed:
Date Mailed:

SJK/db
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.