

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

P.O. Box 30763, Lansing, MI 48909  
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**IN THE MATTER OF:**

██████████,

Appellant

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Docket No. 14-006917 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 of Community Health (Department's) denial of an exception from Medicaid Managed Care Program enrollment.

After due notice, a hearing was ██████████. Appellant personally appeared and testified. ██████████ appeared as Appellant's representative.

██████████, Medical Exception Specialist/MDCH/MSA represented the Department, and testified.

**ISSUE**

Did the Department properly deny the Appellant's request for an 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 who is a beneficiary of SSI.
2. Michigan is a Managed Care state under the federal Medicaid program; the only exception to being enrolled in a health plan is for a beneficiary to be enrolled in a fee for service/"straight Medicaid", which requires the beneficiary to meet the requirements for a medical exception requirements found in the Medicaid Provider Manual (MPM) found at Section 9.3.

██████████  
**Docket No. 14-006917 MCE**  
**Decision and Order**

3. Appellant resides in ██████████, Michigan. Appellant is in the mandatory population required to be enrolled in a Medicaid Health Plan.
4. Appellant has a serious cardiac medical condition.
5. Appellant has been under a medical exception status since ██████ for the purposes of seeing ██████.
6. On or about ██████ DCH received a Medical Exception Request from ██████ on behalf of Appellant that states in part that ██████ does not work with any of the Medicaid Health plans or County Health Plans. (Exhibit A.8)
7. The Department reviewed Appellant's request to remain in a Fee-for-Service (FFS) Medicaid program. The Department contacted Dr. ██████ office on 7-11-14 and was informed that the Doctor's office not only does not accept health plans, it also does not accept FFS Medicaid. Dr. ██████ office indicated that Appellant pays cash. The medical exception was deemed no longer appropriate for Appellant as it served no purpose for Appellant's cost arrangement and/or care. (Exhibit A.10-13)
8. On ██████ the DCH issued a Denial Notice to Appellant. (Exhibit A.10)
9. On ██████ Appellant filed a hearing request. DCH considered the request to fall under the 'timely hearing' policy, and continued Appellant on a FFS arrangement.
10. Appellant's primary physician is a Medicaid enrollee, and would continue to have the same relationship with Appellant as that physician accepts any of the ██████████ health plans Appellant would be enrolled in.

**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.

**Docket No. 14-006917 MCE**  
**Decision and Order**

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, January 1, 2012, 2010, 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.

**Docket No. 14-006917 MCE**  
**Decision and Order**

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 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

██████████  
**Docket No. 14-006917 MCE**  
**Decision and Order**

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.

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The undisputed evidence shows that the Appellant has a serious medical condition as set forth in the above referenced portion of the Medicaid Provider Manual. The criterion for a managed care exception has 3 criteria which all must be satisfied before it may be granted by the Department. Although the Appellant does have a serious medical condition, Appellant does not meet the other requirements of the Medical Exception guidelines found in the MPM Section 9.3. Specifically, ██████████ does not see Appellant for active treatment monthly or more frequently. (See Exhibit A.12) Appellant sees ██████████ every 3-4 months. (Exhibit A.6) Moreover, ██████████ financial arrangement would not be impacted at all as ██████████ does not currently take Appellant's FFS Medicaid, just as ██████████ would not take Appellant's Medicaid Health Plan. In addition, Appellant's primary cardiologist-██████████, who is listed as prescribing all of Appellant's medications, works with all the health plans available to Appellant in ██████████.

As noted above, Michigan is a managed care state under the federal Medicaid program. Michigan is required to follow the parameters identified by the federal law and regulations, and the policy laid out in the MPM in enrolling beneficiaries of the Medicaid program. The Department indicated that Appellant's approval for a medical exception since ██████████ may have been in error; however, that is not reviewed herein and is not a subject of dispute.

The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record.

After a careful review of the credible and substantial evidence of record, this ALJ finds that the Department properly denied Appellant's request for a continuing exception under federal and state law, and department policy. The Department properly concluded that the Appellant is not eligible for an exception from managed care.

**Docket No. 14-006917 MCE**  
**Decision and Order**

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's request for a continued exception from managed care.

**IT IS THEREFORE ORDERED** that:

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

/s/ \_\_\_\_\_  
Janice Spodarek  
Administrative Law Judge  
For Nick Lyon, Director  
Michigan Department of Community Health

JS/ [REDACTED]

cc: [REDACTED]

Date Signed: [REDACTED]

Date Mailed: [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.