

**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. 2014-20754 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.

After due notice, a hearing was held ██████████. Appellant personally appeared and testified. ██████████ appeared with Appellant to assist him as an interpreter.

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

ISSUE

Did the Department properly deny the Appellant's request for an 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 a █████ year-old male who resides in ██████████. Appellant is a beneficiary of AMP, a County Health Plan (CHP), ██████████ Health Plan.
2. On ██████████ the Department received a medical exception request (MER) from Appellant's physician. On that form Appellant stated that the reason he was requesting an exception was because "my doctor does not accept ██████████ Health Plan". (Exhibit A. 14)
3. The Department reviewed the request and determined that it did not meet the medical exception criteria outlined in the Medicaid Provider manual, Section 9.3.

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4. On [REDACTED] Appellant was sent a denial notice indicating that his request for a medical exception was denied as he did not meet any of the medical exception criteria. (Exhibit A.12)
5. On [REDACTED], the Michigan Administrative Hearing System received the Appellant's request for an administrative hearing.

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, 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

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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.

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:

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- 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 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.

In this case, evidence does not indicate that Appellant meets any of the medical exception criteria outlined in Section 9.3 above. Thus, the Department's denial is upheld.

It is noted that the Department expressed some concern that Appellant's hearing request may have been for a request for "full Medicaid coverage" rather than a request for an exception under the County Health Plan. (See Exhibit A.1) If so, Appellant's request would have been filed in the wrong department. However, the communication(s) in this case and the evidence submitted by the Department shows that Appellant was fully informed of the distinction between an exception request with the Department of Community Health (DCH) vs a Medicaid eligibility request with the Department of Human Services (DHS). Despite this, Appellant requested that the DCH administrative hearing go forward.

It is also noted that to some extent, regardless as to whether Appellant has a dispute with DCH vs DHS, in either case, come [REDACTED] Appellant will be dis-enrolled from the CHP due to the ACA and given the option to enroll in the Healthy Michigan Plan, in

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which his physician participates. Appellant was FULLY informed of this in his denial notice, as well as pursuant to the explanations provided in the Department's evidentiary packet.

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 medical exception.

IT IS THEREFORE ORDERED that:

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

 /s/

Janice Spodarek
Administrative Law Judge
for James Haveman, Director
Michigan Department of Community Health

cc:



Date Signed: February 21, 2014

Date Mailed: Febraury 26, 2014

***** 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.