

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. 2014-20761 DISC

██████████

██████████

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 the Appellant's request for a hearing.

After due notice, a hearing was held by telephone on ██████████. Appellant appeared on her own 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 population required to enroll in a Medicaid Health Plan ("MHP"). (Bridges Information and testimony).
2. Appellant has been enrolled in the MHP of ██████████ Community Plan (██████████e) since ██████████. (Exhibit A, p. 12).
3. On or about ██████████, the Department's enrollment services section received a Special Disenrollment-For Cause Request from Appellant. The request indicated that Appellant wanted to change health plans due to weight loss surgery that was restricted to approval in

- ██████████ months, and she wanted to switch to ██████████ so she could get the surgery approved sooner. (Exhibit A, pp. 10-11, 13).
4. On ██████████, the Department sent Appellant's request to ██████████ for a review and response. (Exhibit A, p. 1 and testimony).
 5. On ██████████, ██████████ submitted its response to the Department. In that response, ██████████ wrote that there was no authorization for bariatric surgery on file for the Appellant. ██████████ stated the Appellant thought ██████████ would approve the surgery within ██████████ months and ██████████ would take ██████████ months for approval. Appellant was advised her doctor would have to request authorization for the surgery, and the request would have to show she had been trying to lose weight for the past ██████████ months. (Exhibit A, p. 14 and testimony).
 6. On ██████████, the Special Disenrollment for Cause Request was denied because there was no medical information provided from the Appellant's doctor or access to care/services described that would allow for a change in health plans outside of the open enrollment period. Furthermore, ██████████ had not received a request from her doctor for weight loss surgery. (Exhibit A, p. 12).
 7. On ██████████ a denial notification letter regarding the For Cause Special Disenrollment action was sent to the Appellant. The Appellant's rights to a Medicaid Fair hearing were included. (Exhibit A, p. 12)
 8. On ██████████, the Michigan Administrative Hearing System (MAHS) received a request for hearing filed by Appellant in this matter. (Exhibit A, p. 6-8).

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; Exhibit A, pp. 17-18*].

Here, the Department received Appellant's Special Disenrollment-For Cause Request indicating she wanted to change health plans due to weight loss surgery that was restricted to an approval in █████ months, and she wanted to switch to ██████y so she could get the surgery approved sooner. No other documentation was submitted along with the request.

In reviewing the Appellant's Special Disenrollment-For Cause Request, the Department contacted ██████████ and ██████████ submitted its response to the Department. In that response, ██████████ wrote that there was no authorization for bariatric surgery on file for the Appellant. ██████████ stated the Appellant thought ██████████ would approve the surgery within ██████████ months and ██████████ would take ██████████ months for approval. Appellant was advised by ██████████ her doctor would have to request authorization for the surgery, and the request would have to show she had been trying to lose weight for the past ██████████ months.

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 from the Appellant's doctor or access to care/services 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.

Outside of open enrollment period, however, she must meet the criteria set forth in the contract. In short, she must establish he 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 his health plan.

In this case, the Appellant did not present any evidence to establish she is experiencing a lack of lack of access to care. Furthermore, the Appellant either dropped off the call or disconnected without providing any testimony. A voice mail was left at her listed number, but she failed to call back after she was disconnected from the conference call.

Accordingly, 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.

[REDACTED]
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IT IS THEREFORE ORDERED that:

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

William D Bond

William D. Bond
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

WDB/db

cc: [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.