

**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.** 2014-24007 MCE  
**Case No.** ██████████

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**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 medical exception request?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. From ██████████ through ██████████, the Appellant has been a MA eligible beneficiary. (Exhibit A, p. 1; Testimony)
2. The Appellant resides in Macomb County and is enrolled in the ██████████ Health Plan. (Exhibit A, p. 1; Testimony)
3. On ██████████, the Michigan Department of Community Health Enrollment Services Section received a medical exception request from the Appellant for a Doctor ██████████. (Exhibit A, p. 7; Testimony)
4. The ██████████, medical exception request indicated the frequency of visits would be every 3 months. (Exhibit A, p. 7)

5. Dr. ██████████ participates with several MA Health Plans including ██████████ Health Plan. (Exhibit A, p. 14; Testimony)
6. On ██████████, the Appellant's medical exception request was reviewed and denied. (Exhibit A, p. 1; Testimony)
7. On ██████████, the Michigan Department of Community Health Enrollment Services Section sent the Appellant notification of the denial. (Exhibit A, pp. 10, 11)
8. On ██████████, the Michigan Administrative Hearing System for the Michigan Department of Community Health received the Appellant's request for hearing. (Exhibit A, p. 6)
9. On ██████████, the Appellant's then existing medical exception case file was reviewed by Michigan Department of Community Health Chief Medical Director, Dr. ██████████, M.D. who upheld the Department's decision to deny exception to managed care. (Department's Exhibit A, p. 12; Testimony)

### 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.

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In this case, the Appellant sought medical exceptions for several different providers. However the only medical exception request on file and submitted by the Appellant was for a Dr. ██████████. So because only one medical exception was submitted, I will only address the one medical exception request that was submitted.

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The Department's representative testified the Appellant's request was denied for two primary reasons. The first reason was that the doctor in question participated in the Appellant's MA health plan (██████████ Health Plan). The second reason was that the frequency of visits did not meet the active treatment requirement.

The Michigan Department of Community Health Chief Medical Officer, Dr. ██████████, agreed with the Department reviewer.

The Appellant in this case did not come forward with any evidence to indicate that Dr. ██████████ did not participate in her health plan and did not come forward with any evidence to indicate the frequency of visits was monthly or more.

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: ██████████

Date Signed: March 6, 2014

Date Mailed: March 6, 2014

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**\*\*\* 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.