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. 2014-35821 DISC

[redacted]

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 a request for a hearing filed on behalf of the minor Appellant.

After due notice, a hearing was held on [redacted], Appellant's mother, appeared and testified on Appellant's behalf. [redacted], 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 [redacted] year-old male who has been a Medicaid beneficiary since his birth month and who is a member of the population required to enroll in a Medicaid Health Plan ("MHP"). (Respondent's Exhibit A, page 8; Testimony of [redacted]).

2. Appellant has been enrolled in the MHP of [redacted]") since [redacted] (Respondent's Exhibit A, pages 8-9; Testimony of [redacted].

[1] The hearing was consolidated with the hearing in 2014-35589 DISC, a similar matter involving Appellant's sibling.

3. In [redacted], the Department's enrollment services section received a Special Disenrollment-For Cause Request submitted on Appellant's behalf. (Respondent's Exhibit A, page 8).

4. The request indicated that the Appellant's mother wanted to change health plans for Appellant because of the lack of pediatricians in the area that accepted his MHP and because she wanted to switch to a pediatrician in the area who is not a contracted provider with [redacted]. (Respondent's Exhibit A, page 8).

5. On [redacted], the Department sent Appellant's request to [redacted] for a review and response. (Respondent's Exhibit A, page 9; Testimony of [redacted]).

6. On [redacted] submitted its response to the Department, in which it stated that, while Appellant was being seen by a non-participating physicians for a period of time and Appellant was eventually advised that he had to switch providers, Appellant was not billed for the previous services and the MHP has other participating providers in his area. (Respondent's Exhibit A, page 9; Testimony of [redacted].

7. [redacted] also provided a list of [redacted] pediatricians and ten [redacted] doctors specializing in family practice that are purportedly located within twenty [redacted] miles of Appellant's home and are accepting new patients. (Respondent's Exhibit A, pages 10-12).

8. On [redacted], the Department sent Appellant and his mother a written denial of the Special Disenrollment for Cause Request. (Respondent's Exhibit A, page 7).

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 [redacted] since1[redacted]. [redacted] Plan has several primary care providers, including pediatricians, and specialists available to treat you within their network of

> contracted doctors. You can call [redacted] at [redacted] 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 7*

10. According to Appellant's representative, she then contacted some of the family doctors on the MHP's list, only to be told they were not accepting new patients, and one of the pediatricians on the list, who Appellant's representative found to be unsuitable. (Testimony of Appellant's representative).

11. She also contacted another of the pediatricians on the list and Appellant has been seeing that doctor. (Testimony of Appellant's representative).

12. However, according to Appellant's representative, that doctor is over an hour away. (Testimony of Appellant's representative).

13. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed on behalf of Appellant in this matter. (Respondent's Exhibit A, page 6).

14. On [redacted], the matter was reviewed within the Department by [redacted] who agreed with the denial of Appellant's Special Disenrollment – For Cause Request on the basis that there was no physician documentation to support an access of care or services issue and the health plan has primary care providers within [redacted] miles/[redacted] minutes of the beneficiary's residence. (Respondent's Exhibit A, page 13).

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*[2]

Here, the Department received Appellant's Special Disenrollment-For Cause Request indicating that the Appellant wanted to change health plans because of the lack of pediatricians available under his current plan and because he wanted to switch to a

[2] The relevant portion of the contract was admitted as part of Respondent's Exhibit A, pages 15-16.

pediatrician in the area who is not a contracted provider with [redacted]. The request also identified the plan that Appellant would like to switch to as well as the pediatrician 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 change health plans because he wanted to switch to a non-participating physician. The MHP also provided a list of [redacted] pediatricians and [redacted] doctors specializing in family practice that are purportedly located within [redacted]) miles of Appellant's home and are accepting new patients.

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 physician documentation to support an access of care or services issue and the health plan has primary care providers within [redacted] miles or [redacted] minutes of the beneficiary's residence.

Appellant bears the burden of proving by a preponderance of the evidence that Department erred in denying his 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, he must meet the criteria set forth in the contract. In short, he must establish he has been unable to access care he requires or that he is undergoing active treatment for a serious medical condition with a doctor who does not participate in her health plan.

In this case, Appellant failed to establish that Appellant meets the above criteria. Appellant's representative generally testified that Appellant is unable to access care, but she also failed to support her broad claims with any evidence or other documentation. Moreover, while the pediatrician Appellant is currently seeing does appear to be farther away from Appellant's home than indicated by the MHP's documentation, Appellant's representative did not present any other evidence to establish Appellant is experiencing a lack of access to care as opposed to Appellant's representative wanting to switch to a pediatrician in the area who is not a contracted provider with [redacted]

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 James K. Haveman, Director
Michigan Department of Community Health

Date Signed: [redacted]

Date Mailed: [redacted]

SJK/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.