

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909
(517) 335-2484; Fax: (517) 373-4147

IN THE MATTER OF:

Docket No. 15-000059 DIS

██████████

██████████

██████████

Appellant

_____ /

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.*, and upon Appellant's request for a hearing.

After due notice, a telephone hearing was held on ██████████ ██████████ Appellant's wife, appeared and testified on Appellant's behalf. Appellant was also present on his own behalf. ██████████, Medical Exception and Special Disenrollment Program Specialist, appeared and testified on behalf of the Respondent Michigan Department of Health and Human Services ("DHHS" or "Department").

ISSUE

Did the Department properly deny Appellant's request to receive a Special Disenrollment-For Cause?

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 member of the population required to enroll in a Healthy Michigan Plan Medicaid Health Plan and has been enrolled in the Medicaid Health Plan of ██████████ (██████████) since ██████████. (Testimony of ██████████)
2. On ██████████, the Department's enrollment services section received a Special Disenrollment-For Cause Request from Appellant. (Exhibit A, page 7).
3. In that request, Appellant indicated that he wanted to change health plans because the doctor he would like to use does not accept ██████████. (Exhibit A, page 8).

4. The Department sent Appellant's request to ██████████ for a review and response. (Testimony of ██████████)
5. On ██████████, ██████████ submitted its response to the Department. (Exhibit A, page 8).
6. In that response, ██████████ indicated that it had been unable to contact Appellant, but it was sending him a list of available providers and a request to contact ██████████. (Exhibit A, page 8).
7. On ██████████, the Department sent Appellant written notice that his Special Disenrollment-For Cause Request was denied. (Exhibit A, page 6).
8. With respect to the reason for the denial, the notice stated:

Your request has been denied for the following reason(s):

There is 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 ██████████ since ██████████. ██████████ has several primary care providers and specialists available to treat you within their network of contracted providers.

Exhibit A, page 6

9. On ██████████, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant and his representative in this matter. (Exhibit A, page 5).
10. After filing the request for hearing, Appellant also switched to a new primary care physician within ██████████' network of providers. However, even with that switch, he still wanted to disenroll from ██████████. (Testimony of Appellant's representative).
11. On ██████████, ██████████, the matter was reviewed by ██████████, the Department's Chief Medical Director, who agreed with the denial of Appellant's request. (Exhibit A, page 9).
12. On ██████████, MAHS sent the parties written notice that a telephone hearing was scheduled in this matter for ██████████.

13. Appellant subsequently requested that the hearing be held in person and, on ██████████, MAHS sent the parties written notice that an in person hearing was scheduled for ██████████.
14. However, while Appellant appeared for the hearing on ██████████ he also stated that he could not stay and participate. He further requested that the matter be adjourned and rescheduled, and that any rescheduled hearing to be held over the telephone.
15. The Respondent's representative then indicated that she did not object to an adjournment and the undersigned Administrative Law Judge granted Appellant's request.
16. That same day, the undersigned Administrative Law Judge issued an order granting Appellant's request for an adjournment and a notice of a rescheduled hearing on ██████████.

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 Health and Human Services, pursuant to the provisions of the Social Security Act Medical Assistance Program, contracts with the health plans to provide State Medicaid Plan services to enrolled beneficiaries. The Department's contract with the health plan 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.

Exhibit A, pages 11-12

Here, the Department received Appellant's Special Disenrollment-For Cause Request indicating that the Appellant wanted to change health plans because the primary care physician he wishes to use is not part of ██████████' network of providers.

In reviewing the Appellant's Special Disenrollment-For Cause Request, the Department contacted ██████████s for a review and the health plan submitted its response to the Department. In that response, ██████████ wrote that it was unable to contact Appellant, but that it has primary care providers and specialists available to treat the Appellant within their network of contracted doctors.

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 indicating an active treatment for a serious medical condition, access to care/services issues, or concerns with quality of care, 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 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, which in this case is [REDACTED]

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, demonstrate concerns with quality of care, or establish that he 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 such evidence and his request is based merely on the fact that he wants to be treated by his former primary care physician. However, that mere preference for a particular doctor is insufficient to demonstrate cause for disenrollment and 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.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director

Michigan Department of Health and Human Services

Date Signed: [REDACTED]
Date Mailed: [REDACTED]
SK/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.