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. 15-005318 DIS

[redacted] [redacted] [redacted]

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 [redacted]. Appellant appeared and testified on his own behalf. [redacted] 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 Medicaid beneficiary who is also a member of the population required to enroll in a Medicaid Health Plan. (Testimony of [redacted]).

2. Since [redacted] Appellant has been enrolled in [redacted]"). (Testimony of [redacted]

3. On [redacted], the Department's enrollment services section received a Special Disenrollment-For Cause Request from Appellant. (Exhibit 2, page 1).

4. In that request, Appellant indicated that he wanted to change to [redacted] because [redacted] does not cover some of the medications he needs. (Exhibit 2, page 1).

5. Appellant also indicated in that request that he has not filed a grievance or complaint with [redacted] about the medications. (Exhibit 2, page 1).

6. Appellant further indicated that he has not requested an administrative hearing with the Department either. (Exhibit 2, page 1).

7. On [redacted], the Department sent Appellant written notice that his Special Disenrollment-For Cause Request was denied. (Exhibit A, page 1).

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 [redacted] since [redacted]. All of the health plans have prior authorization (PA) processes for some prescription medications. If your doctor believes you need a medication that is not on the preferred drug list, they can send in a PA and, if that request is denied, you and/or your doctor can file an appeal or hearing against the health plan on that denial.

Exhibit A, page 1

9. On [redacted], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Appellant in this matter. (Exhibit 1, page 1).

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.
>
> *Contract No. 071B02000, page 21*

Here, the Department received Appellant's Special Disenrollment-For Cause Request indicating that the Appellant wanted to change health plans because some medications he needs are not covered. 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 Appellant

regarding any access to care/services issue 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 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 some medications have been denied. However, those denials alone are insufficient to meet his burden of proof where Appellant has never followed up on the denials; filed a grievance or complaint with [redacted]; or requested an administrative hearing with request to any denial of medications. All Medicaid Health Plans have prior authorization requirements and Appellant would have to at least attempt to work with his plan before there is cause for disenrollment. He did not do so here and, consequently, 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]

[redacted]
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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.