

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

P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 373-4147

IN THE MATTER OF:

██████████

Appellant

Docket No. 15-015041 MCE

██████████

██████████

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 Appellant's request for a hearing.

After due notice, a hearing was held on ██████████, Appellant's mother, appeared and testified on Appellant's behalf. ██████████ Medicaid Exception Specialist, appeared on behalf of the Department.

ISSUE

Did the Department properly deny Appellant's request for exception from Managed Care Program enrollment?

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, born ██████████. (Exhibit A, p 6; Testimony)
2. Appellant has been enrolled in Medicaid since ██████████ and has dual coverage under the Children's Special Health Care Services (CSHCS) through ██████████. (Exhibit A, p 1; Testimony)
3. Appellant has been enrolled in a Medicaid Health Plan, ██████████, since ██████████. (Exhibit A, p 1, Testimony)
4. On ██████████ the Department received Appellant's Medical Exception request and supporting medical documentation. A Department physician reviewed the request. (Exhibit A, pp 10-15; Testimony).

5. On ██████████, Appellant's request for a managed care exception was denied because ██████████ who completed the exception form, is a MHP participating physician and because Appellant exceeded the two-month time limitation for medical exceptions. (Exhibit A, pp 8-9, 20-21; Testimony).
6. On ██████████ the Michigan Administrative Hearing System received Appellant's Request for an Administrative Hearing. (Exhibit 1; Testimony).
7. On ██████████ Appellant's request for a managed care exception was also reviewed by the Department's Chief Medical Director. The Director concurred that Appellant's request was properly denied. (Exhibit A, p 19; 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 154 of 2006 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 managed care enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

With regard to medical exceptions, the Medicaid Provider Manual provides, in relevant part:

9.3 MEDICAL EXCEPTIONS TO MANDATORY ENROLLMENT

The intent of a medical exception is to preserve continuity of medical care for a beneficiary who is receiving active treatment

for a serious medical condition from an attending physician (M.D. or D.O.) who would not be available to the beneficiary if the beneficiary was 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 available only 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, whichever occurs first.

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.

9.3.A. DEFINITIONS

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

Fluctuate 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 or she is in the MHP provider network or is available on an out-of-network basis with one of the MHPs for 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. (Exhibit 1, p 20). (Underline added).

Medicaid Provider Manual
Beneficiary Eligibility Chapter
April 1, 2015, pp 44-45
Emphasis added

The Department's representative testified that Appellant's request for a managed care exception was denied because ██████████ who completed the exception form, is a MHP participating physician and because Appellant exceeded the two-month time limitation for medical exceptions. The Department's representative pointed out that Appellant has been enrolled in a MHP, ██████████, since ██████████ but her request for an exception was not received until ██████████ well past the two month limit. The Department's witness indicated that no-one questions that Appellant has a serious medical condition, but that exceptions are not granted because of serious medical conditions alone because all services that are available through fee for service Medicaid are also available through Appellant's Medicaid Health Plan. The Department's witness testified that if Appellant wishes to receive services out of state, she will need to work with her physicians and her MHP to prove that the services Appellant needs are not available within the ██████████. The Department's witness pointed out that given the nature of Appellant's condition, she may also need to work with her local Prepaid Inpatient Health Plan (Community Mental Health) in order to get the referral she seeks.

Appellant's mother testified that Appellant is █ years old (now █ and she has been trying unsuccessfully to get her proper service for years. Appellant's mother indicated that the only place the services Appellant needs are available are at a hospital in ██████████ Appellant's mother testified that Appellant has gained █ pounds in the last █ months and all of the treatments she has received in Michigan have been unsuccessful. Appellant's mother indicated that Appellant now weighs ██████████ pounds and can walk no longer.

Based on the evidence presented, Appellant failed to prove, by a preponderance of the evidence, that the Department decision was improper. The Department demonstrated that the Appellant did not meet all of the criteria necessary for a managed care exception. ██████████ who completed the exception form, is a MHP participating physician and Appellant exceeded the two-month time limitation for medical exceptions. As such, the request for exception from Medicaid Managed Care was properly denied.

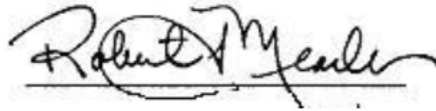
If Appellant wishes to receive services out-of-state, she will need to work with her physicians and her MHP to prove that the services Appellant needs are not available within the State of Michigan. It was not clear from the record whether Appellant's MHP had denied such services, so Appellant will need to seek the services from her MHP and then appeal if the request is denied. Even if Appellant were granted the relief she seeks in this case, namely an exception to managed care enrollment that would not assist her in obtaining the services she desires out of state.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that Appellant does not meet the criteria for a Medicaid Managed Care exception.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Robert J. Meade
Administrative Law Judge
for Nick Lyon, Director
Michigan Department of
Health and Human Services

Date Signed: ██████████

Date Mailed: ██████████

RJM/db

cc: ██████████
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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