



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 2, 2016
MAHS Docket No.: 16-002559
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 Petitioner's request for a hearing appealing the Department of Health and Human Services (Department) denial of exception from Medicaid Managed Care Program (MMCP) enrollment.

After due notice, a hearing was held on [REDACTED]. The Petitioner appeared on his own behalf and offered testimony. Karen Miller, Medial Exception Specialist, represented the Department.

ISSUE

Did the Department properly deny Petitioner'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. At all times relevant to this matter, the Petitioner resided in Macomb County and was part of the mandatory population for enrollment into a Healthy Michigan Plan. (Exhibit A, p. 1; Testimony).
2. On [REDACTED], the Petitioner was approved for the Healthy Michigan Plan. (Exhibit A, p. 1; Testimony).
3. On [REDACTED], the Petitioner enrolled into [REDACTED] Health Plan. (Exhibit A, p. 1; Testimony).
4. On [REDACTED], the Petitioner was transferred to [REDACTED] Healthcare. (Exhibit A, p. 1; Testimony).

5. On [REDACTED], the Department received a Medical Exception Request from Dr. [REDACTED] who submitted it on behalf of the Petitioner. The request indicated the Petitioner received standard treatment and monitoring of chronic medical conditions with quarterly visits (every 3 months). (Exhibit A, pp. 1, 7; Testimony).
6. On [REDACTED], the Department sent the Petitioner a notice indicating the [REDACTED] Medical Exception Request was denied. The Department indicated the request was denied because the request did not identify active treatment of a serious medical condition that would allow for a time limited medical exception into the Fee-For-Service setting. (Exhibit A, pp. 1, 8-9; Testimony).
7. On [REDACTED], the Michigan Administrative Hearings System (MAHS) received from the Petitioner a request for hearing regarding the [REDACTED] denial. (Exhibit A, pp. 1, 6).

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) 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 managed care enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

MDCH Medicaid Provider Manual (MPM), Beneficiary Eligibility § 9.3, Medical Exceptions To Mandatory Enrollment, states in relevant part:

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.

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.

MDCH MPM, Beneficiary Eligibility §9.33, (October 1, 2015, pp 44, 45] states in relevant part:

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 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 a 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.

MDCH MPM, Beneficiary Eligibility §9.7, (October 1, 2015, p 14), states in relevant part:

9.7 EXCLUDED HEALTH PLAN SERVICES

Services are either included or excluded from the health plan's monthly capitation rate. The following services are not included in the monthly capitation rate and may be provided by an enrolled provider who would be directly reimbursed by Medicaid.

In this case, the Petitioner sought a medical exceptions to see Dr. [REDACTED]. Dr. [REDACTED] does not participate in the Petitioner's health plan. The medical information provided with the medical exception request described standard treatment/monitoring of chronic and on-going medical conditions and did not describe the active treatment of a serious medical condition that would allow for a time limited medical exception.

This hearing is limited to reviewing whether the Petitioner met the criteria for a medical exception. The evidence of record has been reviewed. Accordingly, the evidence does not establish that the Petitioner meets the criteria necessary to be granted a managed care exception at this time.

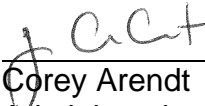
DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department acted properly in denying the Petitioner's request for a medical exception.

IT IS, THEREFORE, ORDERED that:

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

CA [REDACTED]



Corey Arendt
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30763
Lansing, Michigan 48909-8139

Petitioner



DHHS Department Rep.



PO Box 30479
Lansing, MI
48909