



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Steven Kibit

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 Petitioner’s request for a hearing.

After due notice, a telephone hearing was held on [REDACTED]. Petitioner appeared and testified on her own behalf. [REDACTED], Petitioner’s grandmother, also testified as a witness for Petitioner. [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 Petitioner’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. Petitioner is a [REDACTED]-year-old Medicaid beneficiary who is a member of the mandatory population required to enroll in a Medicaid Health Plan (“MHP”). (Exhibit A, page 8; Testimony of Department’s representative).
2. On [REDACTED], after the Department did not receive any notice from Petitioner regarding what MHP she wanted, it assigned Petitioner the MHP of [REDACTED] [REDACTED] [REDACTED] [REDACTED]). (Testimony of Department’s representative).

3. At the time, Petitioner was also assigned [REDACTED] as a primary care physician ("PCP"). (Exhibit A, page 9; Testimony of Petitioner).
4. Petitioner never contacted the assigned PCP. (Testimony of Petitioner).
5. Petitioner did try to schedule an appointment with her previous PCP, but was not able to do so because that physician did not accept [REDACTED]. (Testimony of Petitioner).
6. On [REDACTED], the Department's enrollment services section received a Special Disenrollment-For Cause Request from Petitioner. (Exhibit A, page 8).
7. In that request, Petitioner indicated that she wanted to change health plans, to [REDACTED], because her local doctor and hospital do not participate with [REDACTED] (Exhibit A, page 8).
8. The Department sent Petitioner's request to [REDACTED] for a review and response. (Testimony of Department's representative).
9. In its [REDACTED] response, [REDACTED] indicated that it had contacted Petitioner and Petitioner reported that she wanted to switch to another plan in order to see a particular doctor, who did not accept [REDACTED]. (Exhibit A, page 9).
10. [REDACTED] also indicated that Petitioner reported that she was not interested in having a list of providers who accepted [REDACTED] e provided to her because she had already gone through a list of providers and was not successful, either because the physicians would not accept new patients, they were too far away, or for other reasons. (Exhibit A, page 9).
11. On [REDACTED] the Department sent Petitioner written notice that the request was denied. (Exhibit A, page 7).
12. 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]
[REDACTED]
[REDACTED] has primary care providers and

specialists available to treat you within their network of contracted doctors. They can also refer out of network for network for specialty care if medically appropriate to do so. You can call [REDACTED] if you have any questions, need help finding a doctor or if you need help making arrangements for specialty care or services. Your dental care would be through Medicaid, regardless of the plan enrollment.

Exhibit A, page 7

13. On [REDACTED], the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Petitioner with respect to that denial. (Exhibit A, page 5).
14. On [REDACTED], Petitioner's request for hearing was reviewed by [REDACTED], the Department's Chief Medical Director, who agreed with the denial of Petitioner's request. (Exhibit A, page 10).

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:

N. Disenrollment Requests Initiated by the Enrollee

* * *

- (2) The Enrollee may request a "disenrollment for cause" from current Contractor at any time during the enrollment period that

would allow the Enrollee to enroll with another Contractor. Reasons cited in a request for disenrollment for cause may include:

- a. Enrollee's current Contractor does not, because of moral or religious objections, cover the service the Enrollee seeks and the Enrollee needs related services (e.g. 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.
- b. Lack of access to providers or necessary specialty services covered under the Contract. An Enrollee 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.
- c. Concerns with quality of care.

Exhibit A, page 13

Here, the Department received Petitioner's Special Disenrollment-For Cause Request indicating that the Petitioner wanted to change health plans because her local doctor and hospital did not participate with the MHP that she was assigned and the PCP she wishes to use is not part of its network of providers.

In reviewing Petitioner's Special Disenrollment-For Cause Request, the Department contacted Petitioner's MHP, [REDACTED] for a review and the health plan submitted its response to the Department. In that response, [REDACTED] wrote that it contacted Petitioner and, while she reported problems with locating a doctor, she also was not interested in any assistance from [REDACTED] in locating primary care providers available to treat Petitioner within its network of contracted doctors and, instead, simply wanted to switch plans.

Subsequently, the Department determined that the Petitioner did not meet the for cause criteria necessary to be granted a special disenrollment, because there was no medical information provided from Petitioner 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.

In response, Petitioner testified that, after going in for her yearly physical and learning that her PCP did not accept Petitioner's MHP, Petitioner tried to locate a doctor from the pamphlet sent to her by [REDACTED] but only three names were listed for her area and none were doctors accepting new [REDACTED] patients. She also testified that she checked with the local hospital and learned that it does not accept [REDACTED] either. Petitioner further testified that, when she spoke with

[REDACTED] it only offered to send another pamphlet. However, Petitioner also acknowledged that she knew she had been assigned a PCP through [REDACTED] but that she never contacted that PCP.

Petitioner bears the burden of proving by a preponderance of the evidence that Department erred in denying her disenrollment request.

Given the record in this case, Petitioner has failed to meet her burden of proof and the Department's decision must therefore be affirmed. As noted by the Department's representative, Petitioner 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] [REDACTED]. Outside of open enrollment period, however, she must meet the criteria set forth in the contract. In short, she must establish she has been unable to access care she requires, demonstrate concerns with quality of care, or establish that she is undergoing active treatment for a serious medical condition with a doctor who does not participate in his health plan.

In this case, Petitioner asserts that she cannot access care because no local doctors or hospitals accept her MHP. However, she did not present sufficient evidence supporting her claim given that she never even contacted the PCP who was assigned to her and declined further assistance from [REDACTED] in locating a PCP.

Petitioner's request appears to be primarily based on the fact that she wants to be treated by her former PCP, who does not accept her current MHP, but the mere preference for a particular doctor is insufficient to demonstrate cause for disenrollment and the Department's denial of her request for special disenrollment must therefore 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 Petitioner's request to receive a Special Disenrollment-For Cause.

IT IS THEREFORE ORDERED that:

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

Steven Kibit

[REDACTED]

Steven Kibit
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

[REDACTED]

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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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]