



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 16-001765
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Robert Meade

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 Petitioner's request for a hearing.

After due notice, a hearing was held on [REDACTED]. Petitioner appeared and testified on her own behalf. [REDACTED], Medicaid Exception Specialist, appeared and testified on behalf of the Respondent, Michigan Department of Health and Human Services (MDHHS or 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. Petitioner is a [REDACTED] year-old Medicaid beneficiary, born [REDACTED]. (Exhibit A, p 7; Testimony)
2. Petitioner has been enrolled in Medicaid since [REDACTED] and resides in [REDACTED], a mandatory population to enroll in a Medicaid Health Plan. (Exhibit A, p 1; Testimony)

3. Petitioner was previously enrolled in a Medicaid Health Plan (MHP), [REDACTED] from [REDACTED] through [REDACTED], at which time [REDACTED] contract ended. Petitioner was then transferred to [REDACTED] of Michigan effective [REDACTED]. (Exhibit A, p 1, Testimony)
4. On [REDACTED], the Department received Petitioner's Medical Exception request and supporting medical documentation. A Department physician reviewed the request. (Exhibit A, pp 7-8; Testimony).
5. On [REDACTED], Petitioner's request for a managed care exception was denied because the Department determined that Petitioner was receiving standard treatment for ongoing chronic medical conditions, several of which were described as stable or controlled. The denial notice stated, "The information did not describe the treatment of a serious medical condition that would allow for a time limited medical exception. The health plans have primary care providers and specialists available to treat you with their network of contracted providers." (Exhibit A, pp 10-11; Testimony).
6. On [REDACTED], the Michigan Administrative Hearing System received Petitioner's Request for an Administrative Hearing. (Exhibit 1; Testimony).
7. On [REDACTED], in preparation for the hearing, Petitioner's request for a managed care exception was also reviewed by the Department's Chief Medical Director. The Director concurred that Petitioner's request was properly denied. (Exhibit A, p 12; 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 Petitioner’s request for a managed care exception was denied because, based on the information received, Petitioner was receiving standard treatment for ongoing chronic medical conditions, several of which were described as stable or controlled, not a serious medical condition that would allow for a time limited medical exception.

Petitioner testified that she did not know what was wrong with her for a long time, but was finally diagnosed with fibromyalgia. Petitioner indicated that she used to take NSAIDs for the condition, which caused her to develop ulcers. Petitioner testified that after years of seeking medical help, and being bedridden most of the time, she found her current doctor, who was able to treat her condition successfully with methadone. Petitioner indicated that the treatment got her out of bed and she was able to drive and be a productive member of society. Petitioner also indicated that she has a number of other medical problems, such as an inverted hips and inflammation of the chest.

In response, the Department’s representative indicated that available MHP’s in Petitioner’s areas offer care management services, and those care managers can help Petitioner find a physician who can treat her conditions successfully. The Department’s representative testified that the key will be to get those care managers medical records from Petitioner’s treating physician which show he has successfully treated her and what treatments have not worked in the past. The Department’s representative also pointed out that Petitioner’s open enrollment is coming up in [REDACTED] and some of the MHP’s in her areas have very good relationships with pain centers at the [REDACTED].

Based on the evidence presented, Petitioner failed to prove, by a preponderance of the evidence, that the Department decision was improper. The Department demonstrated that the Petitioner did not meet all of the criteria necessary for a managed care exception. The documentation submitted showed only that Petitioner was receiving standard treatment for chronic medical conditions. In order to receive a medical exception, it must be shown that a patient has a serious medical condition. As such, the request for exception from Medicaid Managed Care was properly denied.

DECISION AND ORDER

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

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



RM/cg

Robert J. Meade

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

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]