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: February 7, 2017
MAHS Docket No.: 16-017916
Agency No.: [redacted]
Petitioner: [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 the Petitioner's request for a hearing.

After due notice, a telephone hearing was held on January 31, 2017. Petitioner appeared and testified on her 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 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 thirty-four-year-old Medicaid beneficiary who is a member of the mandatory population required to enroll in a Medicaid Health Plan ("MHP"). (Exhibit A, page 9; Testimony of Department's representative).

2. Since March 1, 2015, Petitioner has been enrolled in the [redacted] MHP. (Exhibit A, page 9).

3. On or about August 9, 2016, one of Petitioner's medical providers, [redacted] stopped accepting Petitioner's MHP. (Exhibit A, page 9; Testimony of Petitioner).

4. On October 31, 2016, the Department's enrollment services section received a Special Disenrollment-For Cause Request from Petitioner. (Exhibit A, page 9).

5. In that request, Petitioner indicated that she wanted to change her MHP to [redacted] because [redacted] no longer accepted her current MHP and she wanted to continue being treated there. (Exhibit A, page 9).

6. The Department sent Petitioner's request to [redacted] for a review and response. (Testimony of Department's representative).

7. In its subsequent response, [redacted] indicated that Petitioner had never called it about any issues and that its attempts to contact Petitioner had been unsuccessful. (Exhibit A, page 10).

8. The response also indicated that, while it was unaware what she was being treated for, [redacted] sent Petitioner a list of participating providers. (Exhibit A, page 10).

9. On November 22, 2016, the Department sent Petitioner written notice that her request was denied. (Exhibit A, page 11).

10. 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]. [redacted] has primary care providers and specialists, including pain management providers, available to treat you within their network of contracted doctors. You can call [redacted] at 1-800-[redacted] if you have any questions, need help finding a doctor or if you need help making arrangements for specialty care or services.

Exhibit A, page 11

11. On December 6, 2016, the Michigan Administrative Hearing System (MAHS) received the request for hearing filed by Petitioner with respect to that denial. (Exhibit A, pages 6-8).

12. On December 20, 2016, Petitioner's request for hearing was reviewed by Dr [redacted], the Department's Chief Medical Director, who agreed with the denial of Petitioner's request. (Exhibit A, page 12).

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 14

Here, the Department received Petitioner's Special Disenrollment-For Cause Request indicating that the Petitioner wanted to change health plans because her pain specialist no longer participated with her current MHP and she wanted to continue treatment with it.

In reviewing Petitioner's Special Disenrollment-For Cause Request, the Department contacted Petitioner's current MHP for a review and MHP submitted a response to the Department in which it stated that Petitioner had never called it; it had been unable to contact Petitioner; and that it sent Petitioner a list of its participating providers.

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 any 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 she could not get any information from her pain specialist because she was no longer a patient there, because it no longer participated with her MHP, but that it has been the only provider who has been able to properly treat her serious condition. Petitioner also testified that she tried multiple clinics that participate with her MHP prior to finding her current provider and that none were able to help her. She further testified that she contacted some on the providers on the list that her MHP sent her, but that some are not pain specialists and some do not even participate with her MHP.

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 March of 2017. 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 or demonstrate concerns with quality of care.

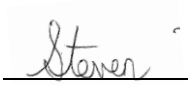
In this case, Petitioner clearly prefers the medical provider she was seeing in the past and wants to switch MHPs in order to continue to see that provider, but the record fails to reflect any access to or quality of care issues. While Petitioner asserts that none of her MHP's participating providers can provide the care she needs, she did not present sufficient evidence supporting her claim given that she never contacted the MHP regarding any issues with care; she did not respond to their attempts to contact her; and she provided no supporting medical documentation. Petitioner's request appears to be solely based on the fact that she wants to be treated by her former provider, 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**.



SK/tm

Steven Kibit
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]

[redacted]

[redacted]