

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: March 10, 2020  
MOAHR Docket No.: 20-000052  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Corey Arendt**

**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 February 20, 2020. Petitioner appeared on her own behalf and offered testimony. Karen Miller, Department Specialist, appeared and testified on behalf of 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 Medicaid beneficiary, born [REDACTED]. (Exhibit A, p 8; Testimony.)
2. Petitioner has been eligible for Medicaid since November 1, 2011 and currently resides in Macomb County. Petitioner is in the mandatory population to enroll in a Medicaid Health Plan. Petitioner has been enrolled in Molina Healthcare of Michigan since January 1, 2016. (Exhibit A, p 1; Testimony.)
3. On November 19, 2019 and November 27, 2019, the Department received Petitioner's Medical Exception requests and supporting medical documentation. (Exhibit A, pp 1, 7-8; Testimony.)
4. On December 10, 2019, Petitioner was sent a denial notice, which explained the reasons for the denial and provided Petitioner. The notice indicated Petitioner's requests were denied for the following reasons:

- The information provided was from doctors that work with health plans you can enroll in. Our records show that Dr. [REDACTED] and Dr. [REDACTED] both work with Molina Healthcare of Michigan and Blue Cross Complete. Because your doctors work with or accepts referrals from health plans available to you, you do not meet the criteria for a time limited medical exception in the FFS setting.
- Our records show that you have been enrolled in Molina Healthcare of Michigan for more than two months. The medical exception process is for newly eligible beneficiaries who are not yet in a health plan or who have just recently been enrolled into one. Because you have been enrolled in a health plan since 01/01/2016, a Medical Exception is not appropriate at this time. Your case has been referred to your health plan so that they can help you... (Exhibit A, p 34; Testimony.)

5. On January 8, 2020, the Michigan Office of Administrative Hearings and Rules received Petitioner's Request for an Administrative Hearing. (Exhibit A, p 6; Testimony.)
6. On January 10, 2020, in preparation for the hearing, Petitioner's request for managed care exceptions was also reviewed by a Department Medical Consultant Dr. [REDACTED], M.D. The Consultant concurred that Petitioner's requests were properly denied. (Exhibit A, pp 2, 36; 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.<sup>1</sup>

The Department's representative testified that Petitioner's request for managed care exceptions were denied because the Department determined that the requests were all from medical professionals who work with Medicaid Health Plans available to Petitioner.

Petitioner argued that she needs a kidney transplant, had a request for a transplant denied by Molina and therefore requires FFS in order to get the transplant.

The documentation provided indicates Molina had denied Petitioner's request on the basis that the request did not contain enough information from Petitioner's doctors to reflect Petitioner as meeting the rules and guidelines for a kidney transplant. The record does not indicate whether Petitioner ever appealed the Molina decision. Furthermore, regardless of whether or not the Petitioner had a FFS benefit or MHP benefit, Petitioner would still be required to meet the prior authorization criteria as prescribed by the MPM and other applicable policies.

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 because the medical professionals who signed the exception requests accept referrals from Petitioner's Medicaid Health Plan. As such, the request for exceptions 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.

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<sup>1</sup> *Medicaid Provider Manual*, Beneficiary Eligibility Chapter, October 1, 2019, pp 43-44.  
Emphasis added

CA/sb

*J. Arendt*  
**Corey Arendt**

Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

**DHHS Department Rep.**

Karen Miller  
PO Box 30479  
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48909

**Petitioner**

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