

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-54058
20119567
Issue No: 2005
Case No: [REDACTED]
Hearing Date:
May 12, 2011
Oakland County DHS-02

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

RECONSIDERATION DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon Claimant's request for a hearing. After due notice, an in hearing was held on May 12, 2011. The Claimant and Claimant's Authorized Representative [REDACTED] appeared and Claimant testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's MA-Emergency Services Only application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant applied for MA benefits on December 17, 2008.
- (2) Claimant's application was denied on March 30, 2010 based on the Medical Review Team's determination that Claimant is not disabled.
- (3) It does not appear the MA-Emergency Services Only was considered at the time of denial.

- (4) Claimant requested a hearing on June 25, 2010 contesting the denial of her Medicaid application.
- (5) Claimant requested MA-Emergency Services Only at hearing.
- (6) Claimant has resided in Michigan for the past 15 years and intends to stay in Michigan.
- (7) Claimant is not a citizen or legal resident of the United States.
- (8) Claimant is a citizen of Canada.
- (9) Claimant conceded at hearing that the only Medicaid program she may be eligible for is Emergency Services Only.
- (10) On July 8, 2011, Administrative Law [REDACTED] issued a decision and order reversing the department's denial of claimant's application for Medical Assistance, stating that the department was incorrect in the denial of claimant's MA-ESO application and ordered the department to activate MA-ESO coverage back to the date of application.
- (11) On September 6, 2011, the Oakland County Department of Human Services requested a reconsideration of claimant's [REDACTED] decision, stating that the [REDACTED] misapplied manual policy.
- (12) On January 12, 2012, Administrative Law Judge Manager Marya Nelson Davis issued and Order of Reconsideration.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/ reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Requested Rehearing/Reconsideration
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**
- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the** client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, SOAHR, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency; see BEM 220.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status.

U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid; see BAM 130.

A person claiming U.S. citizenship is not eligible for ESO coverage.

The alien status of each non-citizen must be verified to be eligible for full MA coverage; see CITIZENSHIP/ALIEN STATUS in this item.

A child born to a woman receiving Medicaid is considered a U.S. citizen. No further documentation of the child's citizenship is required. BEM, Item 255, Page 1.

MA coverage is limited to emergency services for any:

- Persons with certain alien statuses or U.S. entry dates as specified in policy; see CITIZENSHIP/ALIEN STATUS in this item.

- Persons refusing to provide citizenship/alien status information on the application.
- Persons unable or refusing to provide satisfactory verification of alien information. BEM, Item 255, page 2

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM, Item 105.

Department policy at BEM, Item 225, pages 26-28 dictates that in order to be eligible for Emergency Services coverage the following requirements must be met:

- Age – the applicant must be under age 21 or over 67 years of age.
- The applicant must be currently pregnant.
- The applicant must be a caretaker of an applicant under the age of 18.

Department policy explains how immigration status effects MA eligibility--**MA and AMP** • Alien paroled into the U.S. for less than one year under INA section 212(d) (5). Coverage is limited to emergency services • Nonimmigrant--an alien temporarily in the U.S. for a specific purpose (for example, student, tourist). The alien must not have exceeded the time period authorized by USCIS. For both MA and AMP, coverage is limited to emergency services only. • **Persons who do not meet any of the MA citizenship/alien statuses above--limited to coverage of emergency services only.** This includes, for example, undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS. BEM 225

In the present case, Claimant does not meet any of the criteria for any coverage other than Emergency Services Only. Claimant is not a US citizen or permanent resident and has no pending applications for citizenship or permanent residency for the United States. Claimant is an undocumented alien. Claimant conceded at hearing that the only MA program she may eligible for is Emergency Services Only. Claimant is not under age 21, over aged 67, currently pregnant or the caretaker of an applicant under the age of 18. The Department was correct to deny Emergency Services Only-MA to Claimant. Therefore this Administrative Law Judge finds that the Department's denial of Claimant's MA-ESO application was proper and correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in the denial of Claimant's MA-ESO application, and it is ORDERED that Administrative Law Judge McClintic's decision and order be VACATED and the department's original determination be AFFIRMED.

/s/_____

Landis Y Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/17/12

Date Mailed: 1/17/12

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LYL/ds

