

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201337155
Issue No.: 2005
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED], acting as authorized hearing representative. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. [REDACTED] and another person have both been appointed as full guardians of the Claimant.
2. The Claimant does not claim to be a United States (US) citizen.
3. The Claimant is an ongoing Medical Assistance (MA) recipient.
4. The Claimant entered the US on [REDACTED]
5. The Claimant was approved by the U.S. Immigration and Naturalization Service to remain in the country on a student visa with an expiration date of [REDACTED]

6. The Claimant has required long term medical care since he suffered a severe brain injury on [REDACTED]
7. The Department received an application for benefits on [REDACTED], requesting Medical Assistance (MA) for the Claimant.
8. On [REDACTED] the Department notified the Claimant that he was approved for Medical Assistance (MA) benefits but is only approved for Emergency Services only as of [REDACTED].
9. On [REDACTED] the Department notified the Claimant that he is approved for Medical Assistance (MA) benefits but is only approved for Emergency Services only as of [REDACTED].
10. The Department received the Claimant's request for a hearing on [REDACTED] protesting the category of Medical Assistance (MA) that the Department has approved for the Claimant.

CONCLUSIONS OF LAW

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Department of Human Services Bridges Assistance Manual (BAM) 600 (February 1, 2013), p 4.

The Department received the Claimant's request for a hearing on [REDACTED], protesting the category of Medical Assistance (MA) that the Department has approved the Claimant for. The Claimant's representative argued that the Department has improperly restricted the Claimant to an Emergency Services Only category of Medical Assistance (MA) since [REDACTED].

This Administrative Law Judge finds that the Claimant's hearing request is untimely with respect to the [REDACTED] Notice of Case Action because more than 90 calendar days passed since written notice of that case action was sent to the Claimant until his request for a hearing was received. The Claimant's request for a hearing is timely with respect to the [REDACTED] Notice of Case Action, and the Claimant is entitled to a hearing on that issue and benefit period.

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. Citizenship/alien status is not an eligibility factor for emergency services only (ESO) Medical Assistance (MA). A non-immigrant is 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 the United States Customs and Immigration Service (USCIS). For Medical Assistance (MA), coverage is limited to emergency services only. Department of Human Services Bridges Eligibility Manual (BEM) 225 (May 1, 2013), pp 1-8.

In this case, the Claimant entered the United States on [REDACTED] and was approved by the US Immigration and Naturalization Service to remain in the country on a student visa with an expiration date of [REDACTED]

The Claimant has required long term medical care since he suffered a severe brain injury on [REDACTED]. The Department received an application for benefits on [REDACTED], requesting Medical Assistance (MA) for the Claimant. The Department does not dispute that the Claimant has been approved for Medical Assistance (MA) in the past.

On [REDACTED], the Department notified the Claimant that he was approved for Medical Assistance (MA) benefits but was only approved for Emergency Services Only as of [REDACTED]

Whether the Claimant was properly approved for Medical Assistance (MA) in the past is not relevant to this hearing. The only issue under consideration by this Administrative Law Judge is whether the Department properly limited the Claimant to Emergency Services Only as of [REDACTED]

This Administrative Law Judge finds that the Claimant is not a U.S. citizen, permanent resident alien, and does not hold any other acceptable immigration status. The Claimant entered the U.S. on [REDACTED] for a specific purpose and was authorized to remain in the U.S. on a student visa with an expiration date of [REDACTED]. Unfortunate circumstances have caused the Claimant to remain in the U.S. after his visa has expired, and he has required long term medical care since [REDACTED]

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly determined the Claimant's eligibility for Medical Assistance (MA) on [REDACTED] and properly determined that he is eligible for Emergency Services Only based on his immigration status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Medical Assistance (MA) eligibility.

The Department's Medical Assistance (MA) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/s/

Kevin

Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 04/29/2013

Date Mailed: 04/29/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

201337155/KS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

KS/kl

cc:

