

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-42938
Issue No.: 2005
Case No.: [REDACTED]
Hearing Date: June 18, 2013
County: Wayne-82

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 conducted at the Wayne County DHS office on April 25, 2013. Claimant's daughter personally appeared and testified. Claimant was unavailable to appear. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED] [REDACTED] Eligibility Specialist [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

1. Whether the Department properly determined Claimant's Medicaid eligibility based on her alien status?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of MA benefits.
2. On January 9, 2013, Claimant was sent a Notice of Case action informing Claimant that her Medicaid deductible was \$ [REDACTED] a month beginning February 1, 2013.
3. Claimant submitted a request for hearing on February 1, 2013, disputing the change of full Medicaid coverage to a deductible.

CONCLUSIONS OF LAW

Department of Human Services (DHS) policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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.

Departmental policy specifies that 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 receive Medicaid. The alien status of each non-citizen must be verified to be eligible for full MA coverage. See "CITIZENSHIP/ALIEN STATUS" section below.

MA coverage is limited to emergency services for:

- . Persons with certain alien statuses or U.S. entry dates as specified in policy, see "CITIZENSHIP/ALIEN STATUS" section below, or
- . Persons refusing to provide citizenship/alien status information on the application, or
- . Persons unable or refusing to provide satisfactory verification of alien information.

Note: All other eligibility requirements including residency (BEM 220) MUST be met even when MA coverage is limited to emergency services. BEM ITEM 225, pp. 1-2.

Persons listed under the program designations in "Acceptable Status" meet the requirement of citizenship/alien status. Eligibility may depend on whether or not the person meets the definition of "Qualified Alien." BEM, Item 225, p. 2. The definition of qualified alien includes specific alien statuses, but not all alien statuses. This definition is used in several of the acceptable alien statuses, in conjunction with other criteria. Not all acceptable alien statuses require that the person be a qualified alien. Qualified alien means an alien who is:

- . lawfully admitted for permanent residence under the INA; or
- . granted asylum under Section 208 of the INA; or
- . a refugee who is admitted to the U.S. under Section 207 of the INA; or
- . paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one year; or

- . an alien whose deportation is being withheld under Section 241(b)(3) or 243(h) of the INA; or
- . granted conditional entry pursuant to Section 203(a)(7) of the INA; or
- . a Cuban/Haitian entrant; or
- . an alien who has been battered or subjected to extreme cruelty in the U.S. by a U.S. citizen or legal permanent resident spouse or parent, or by a member of the spouse or parent's family living in the same household, or is the parent or child of a battered person. BEM, Item 225, pp. 2-3.

In addition, an alien admitted into the U.S. must have one of the following immigration statuses:

- .. Permanent resident alien with a class code on the I-551 other than RE, AM or AS, or
- .. Alien paroled into the U.S. for at least one year under INA Section 212(d)(5)

The eligibility of an alien admitted into the U.S. on or after August 22, 1996 with one of these statuses is restricted as follows unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien:

- .. For MA and AMP, he is limited to emergency services for the first five years in the U.S.
- . Permanent resident alien with an I-151, Alien Registration Receipt Card. BEM, Item 225, p. 5.

In this case, Claimant's daughter contends her mother is a permanent resident alien and not an undocumented alien. There is no evidence the department ever classified Claimant as an undocumented alien.

The department did submit evidence that Claimant was initially mistakenly approved for full Medicaid and that during a Redetermination, it was discovered Claimant was a permanent resident alien and as a result, was only eligible for emergency services.

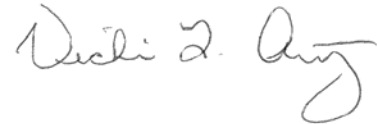
A review of BEM 225 is clear that permanent resident aliens are restricted to emergency Medicaid only for the first 5 years. Claimant entered in the United States in February, 2009. Therefore, she is within the 5 year window and ineligible for full Medicaid at this time. While the Administrative Law Judge commiserates with Claimant's circumstances, the Judge's role is to determine whether the department properly followed policy and in this case it is clear the department acted properly.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly determined Claimant was only eligible for emergency services under Medicaid.

Accordingly, the department's decision is hereby, **AFFIRMED**.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 11, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

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

2013-42938/VLA

VLA/las

cc:

