

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19134
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 5, 2014
County: SSPC-East (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on March 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's brother/interpreter, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Department Manager; [REDACTED], Eligibility Specialist; and [REDACTED], Hearings Coordinator.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) benefits as Emergency Services Only (ESO) coverage effective November 1, 2013, ongoing?

FINDINGS OF FACT

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

1. On November 15, 2013, Claimant applied for MA benefits and indicated in the application that she is not a U.S. citizen and date of entry (DOE) was August 10, 2011. See Exhibit 1.
2. On December 9, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for MA – ESO coverage effective November 1, 2013, ongoing. See Exhibit 1.

3. On December 20, 2013, Claimant filed a hearing request, protesting her MA – ESO coverage. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

As a preliminary matter, on December 9, 2013, the Notice of Case Action also notified Claimant that her child's MA benefits were approved effective November 1, 2013, ongoing. Claimant testified that she was not disputing her child's MA approval.

On November 15, 2013, Claimant applied for MA benefits and indicated in the application that she is not a U.S. citizen and DOE was August 10, 2011. See Exhibit 1. Claimant did not dispute any of the above information. Moreover, the Department testified that Claimant did not indicate any disability in the application nor did the SOLQ documentation indicate any disability for the Claimant. See Exhibit 1. Nevertheless, on December 9, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for MA – ESO coverage effective November 1, 2013, ongoing. See Exhibit 1. The Department testified that Claimant was approved only for MA – ESO coverage as she is not a U.S. citizen and has only been in the U.S. as of August 2011 and is the mother of a minor child. See Hearing Summary, Exhibit 1.

At the hearing, Claimant testified that she needs full MA coverage as she has additional medical expenses. Claimant agreed that she is not a U.S. citizen and her DOE was August 10, 2011. Claimant also provided her permanent resident card. See Exhibit A. A review of the permanent resident alien card indicated it had a class code on the I-551 other than RE, AM or AS. See Exhibit A. The category indicated on the card was IR5. See Exhibit A.

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. BEM 225 (July 2013), p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2. MA coverage is limited to emergency services for persons with certain alien statuses or U.S. entry dates as specified in BEM 225. BEM 225, p. 3.

Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. BEM 225, p. 3. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3.

Qualified alien means an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA). BEM 225, p. 3. An additional list of qualified alien is listed in BEM 225; however, Claimant's testimony indicated that she did not meet the other category requirements. See BEM 225, pp. 3-4.

Aliens admitted into the U.S. with one of the following immigration statuses:

- Permanent resident alien with a class code on the I-551 other than RE, AM or AS.

. . .

Exception (both statuses above): 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 an individual is limited to emergency services for the first five years in the U.S

BEM 225, pp. 7-8.


Based on the foregoing information and evidence, the Department properly processed Claimant's MA benefits as Emergency Services Only (ESO) coverage effective November 1, 2013, ongoing, in accordance with Department policy. The following information is not disputed: Claimant is not a U.S. citizen; her DOE was August 10, 2011; she has been in the U.S. less than five years; and she was admitted into the U.S. with an immigration status as permanent resident alien with a class code on the I-551 other than RE, AM or AS. A review of the permanent resident alien card concludes that she is a permanent resident alien with a class code on the I-551 other than RE, AM or AS. See Exhibit A. As BEM 225 states above, permanent resident alien with a class code on the I-551 other than RE, AM or AS, who are admitted into the U.S. on or after August 22, 1996 is restricted to ESO coverage the first five years unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. See BEM 225, pp. 7-8. Claimant does not meet the military alien exception per her testimony. Thus, Claimant's MA benefits is limited to ESO for the first five years in the U.S. as she is an alien with an immigration status of permanent resident alien with a class code on the I-551 other than RE, AM or AS. See BEM 225, pp. 1-8.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it properly processed Claimant's MA benefits as ESO coverage effective November 1, 2013, ongoing.

Accordingly, the Department's MA decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 24, 2014

Date Mailed: March 24, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing 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 claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

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 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

