

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

IN THE MATTER OF:



Reg. No.: 14-008646
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: Oct. 28, 2014
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included claimant and her pastor [REDACTED], acting as witness and Spanish language translator for claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist acting as Hearings Facilitator.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P)?

FINDINGS OF FACT

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

- (1) On March 22, 2014, claimant filed an application for Medical Assistance and retroactive Medical Assistance alleging disability.
- (2) On May 7, 2014, the Medical Review Team denied claimant's application stating that claimant's impairments lacked duration.
- (3) On May 13, 2014, the department caseworker sent claimant notice that her application was denied.
- (4) On July 28, 2014, claimant filed a request for a hearing to contest the department's negative action.

- (5) Claimant is a 52-year-old woman whose birth date is [REDACTED]. Claimant is 5 feet 2 inches tall and weighs 138 pounds. Claimant attended the first grade and has no GED. Claimant is able to read and write.
- (6) Claimant last worked December 2013, at a pizza packing plant.
- (7) Claimant alleges as disabling impairments: arthritis, stroke, dizziness, headaches, three surgeries in the brain with a Shunt Coil placed December 6, 2013, seizures and thyroid problems.
- (8) Claimant is an undocumented alien from Guatemala. She is not a citizen of the United States. She has been in the United States for 19 years.

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).

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. BEM 225, page 2.

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.

Note: All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services; see BEM 220.

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.

- Person who does 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.

Qualified alien means an alien who is:

- Lawfully admitted for permanent residence under the INA.
- Granted asylum under Section 208 of the INA.
- A refugee who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants.
- Paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one year.

- An alien whose deportation is being withheld under Section 241(b)(3) or 243(h) of the INA.
- Granted conditional entry pursuant to Section 203(a)(7) of the INA.
- A Cuban/Haitian entrant.
- 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's or parent's family living in the same household, or is the parent or child of a battered person. BEM 225, page 4
- The coverage of a person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to emergency services until verification is obtained.
- A person claiming to be a U.S. citizen is not eligible for ESO coverage.
- Verify all other eligibility requirements, including residency, before authorizing emergency services coverage; see BEM 220. BEM 225, page 20.
- An alien limited to emergency services only (ESO) coverage during the five-year bar means the following aliens who entered the U.S. on or after 8/22/96.
- A permanent resident alien with class codes other than RE, AM or AS, and an alien paroled under INA section 212(d)(5) for at least one year.
- The individual is limited to emergency services only (ESO) Medicaid coverage the first five years in the U.S. BEM 227, page 30.

Pursuant to Department policy a person who does not meet any of the MA citizenship/alien statuses is limited to coverage of emergency services only. This includes undocumented aliens and nonimmigrants who have stayed beyond the period authorized by the USCIS. Claimant is not eligible to receive Medical Assistance benefits beyond emergency services based upon BEM 225, page 10.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was not eligible to receive Medical Assistance benefits based upon disability. This Administrative Law Judge has no equity powers and cannot act in contravention to Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's application for Medical Assistance or retroactive Medical Assistance benefits based upon disability. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.



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

Date Signed: 11/13/2014

Date Mailed: 11/14/2014

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 48909-8139

LYL/sw

cc:

