

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001191
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: June 4, 2014
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 telephone hearing was held on June 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED], and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED], and [REDACTED].

ISSUE

Did the Department properly determine the Claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. The Claimant applied for Medical Assistance (MA) on March 19, 2014.
2. The Claimant is being considered for benefits based on disability, but a final determination of disability has not been made.
3. On April 7, 2014, the Department approved the Claimant for Emergency Services Only (ESO) Medical Assistance (MA).
4. The Department received the Claimant's request for a hearing on April 18, 2014, protesting the level of Medical Assistance (MA) he was approved for.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The Claimant applied for Medical Assistance (MA) on March 19, 2014, claiming to be disabled. A determination of disability has not been completed, and there is no right to a hearing on that subject until there has been a final determination of eligibility based on disability.

On April 7, 2014, the Department approved the Claimant for Medical Assistance (MA) under the category of Emergency Services Only (ESO). This determination was based on Department of Human Services Bridges Eligibility Manual (BEM) 225 (January 1, 2014), pp 7-8, which limits persons admitted to the United States as Permanent Resident Aliens to Emergency Services Only (ESO) for the first five years in the country.

The Claimant argued that he entered the country in 1989, left in 2001, and returned in 2013. The Claimant argued that it has been more than five years since his entry into the United States, and that he should be eligible for Medical Assistance (MA) under some category other than Emergency Services Only (ESO).

The Claimant's grievance centers on dissatisfaction with the Department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).


The Department's policy requires that Permanent Resident Aliens remain eligible for Emergency Services Only (ESO) for their first five years in the country and does not include any provisions for crediting additional time while they were working towards immigrating into the country. The evidence on the record indicates that the Claimant has not been in the country with his current immigration status for more than five years.

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 limited the Claimant to the Emergency

Services Only (ESO) category of Medical Assistance (MA), pending a final determination of disability.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **6/20/2014**

Date Mailed: **6/20/2014**

KS / hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

