

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

IN THE MATTER OF:



Reg. No.: 15-001353
Issue No.: MEDICAID - ELIGIBILITY
Case No.: [REDACTED]
Hearing Date: March 04, 2015
County: KALAMAZOO

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 4, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant and his wife are only eligible for Emergency Services Only (ESO) 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. On October 12, 2014, Claimant applied for MA for himself and his wife, but did not declare his alien status.
2. On October 23, 2014, Healthy Michigan Plan (HMP) MA was approved for Claimant and his wife.
3. Verifications were requested and received.
4. On December 13, 2014, an automatic update changed the MA coverage from HMP to Emergency Services Only (ESO) effective January 1, 2015.
5. Claimant has a J1 visa and Claimant's wife has a J2 visa.
6. On January 5, 2015, a Health Care Coverage Determination Notice was issued to Claimant stating Claimant and his wife were approved for ESO February 1, 2015, and ongoing.

7. On January 15, 2015, Claimant filed a hearing request contesting the Department's actions.

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.

MA coverage is limited to emergency services for any persons with certain alien statuses or U.S. entry dates as specified in policy. For non-immigrants--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 USCIS and MA coverage is limited to emergency services only. A person with non-immigrant status is only eligible for Emergency Services Only (ESO) MA. BEM 225, 10-1-2014, pp.2, 9 and 32-33.

In this case, the Hearing Facilitator explained that the Department had opened HMP MA for Claimant and his wife October 23, 2014. However, on December 13, 2014, an automatic update changed the MA coverage from HMP to ESO. It appears that no written case action notice was sent until a re-determination for the children's MA cases was processed. The January 5, 2015, Health Care Coverage Determination Notice stated Claimant and his wife were approved for ESO February 1, 2015, and ongoing. It was confirmed that there were no changes with the children's MA.

Claimant testified that he is a teaching assistant with a PhD program. Claimant has a J1 visa and Claimant's wife has a J2 visa. Claimant provided testimony regarding how he found out about the MA coverage changes from medical providers. Claimant also noted that by the time the Department issued the written notice of the ESO coverage for February 2015 and ongoing, the coverage had already been changed to ESO.

In this case, it is clear that the Department did not follow their own policy requiring written notice of case actions when the MA eligibility determinations were made. (See BAM 220, 10-1-2014). For example, there is no evidence of written notices regarding the HMP approval or the change to ESO effective January 1, 2015, from the automatic update. However, this ALJ does not have any equitable authority to issue any remedy for Claimant. The evidence establishes that Claimant and his wife are only eligible for ESO MA coverage. Claimant and his wife have non-immigrant status visas related to Claimant's participation in a work and study based program. Accordingly, Claimant and

his wife are only eligible for ESO MA. Therefore, this ALJ must uphold the Department's determination to approve the ESO MA.

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 determined Claimant and his wife are only eligible for ESO MA.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/23/2015**

Date Mailed: **3/23/2015**

CL/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 48909-8139

cc:

