

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-009530
Issue No.: 2001
Case No.: ██████████
Hearing Date: August 24, 2015
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly provide Claimant, his wife, and their minor child with Emergency Services Only (ESO) Medical Assistance (MA) coverage?

FINDINGS OF FACT

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

1. Claimant is a permanent resident residing in the United States since March 16, 2010.
2. Claimant's wife and child have resided in the U.S. since May 5, 2014.
3. On May 28, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying him that he was eligible for ESO MA from April 1, 2015 ongoing and his wife was eligible for ESO MA from June 1, 2015 ongoing.
4. Claimant's child receives ESO MA.
5. On June 4, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

To be eligible for full coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2014), p. 2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible for ESO MA coverage only for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the Department relied on the fact that Claimant's class category on his permanent resident card was not legible in concluding that he was eligible for only ESO MA rather than full-coverage MA. However, Claimant had been a U.S. resident for five years as of March 16, 2015. That fact was clearly identified on the copy of the permanent resident card on file with the Department (Exhibit B). Therefore, regardless of his class code, as a permanent resident with five years of residency in the U.S., Claimant was eligible for full-coverage MA, not ESO coverage. Furthermore, the Department did not present any evidence that, even if it concluded that there was a discrepancy between the permanent residency card submitted by Claimant and the information it retrieved from the systematic alien verification for entitlements (SAVE), the intergovernmental information-sharing initiative designed to aid eligibility specialists in determining a noncitizen applicant's immigration status, it requested, in accordance with policy, verification of Claimant's class code prior to concluding that Claimant was eligible for ESO MA. BEM 225A (July 2013), pp. 1-3.

With respect to Claimant's wife and child, the evidence established that neither had been in the U.S. for five years nor had entered the U.S. with a class code of RE, AM, AS. Accordingly, neither was eligible for full-coverage 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 provided ESO MA to Claimant's wife and child but did not act in accordance with Department policy when it provided Claimant with ESO MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to providing ESO MA to Claimant's wife and child and **REVERSED IN PART** with respect to providing ESO MA to Claimant.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Provide Claimant with full-coverage MA from April 1, 2015 ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/2/2015**

Date Mailed: **9/2/2015**

ACE / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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