

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016271
15-016549
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: December 2, 2015
County: Special Processing Office

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Pursuant to a September 8, 2014 federal lawsuit, the Michigan Department of Health and Human Services (MDHHS) issued notices to Medicaid applicants and recipients who were potentially denied full Medicaid coverage between January 2014 and May 2015 based on immigration status. The notices included information about how to request a hearing. Petitioner filed a request for a hearing and accordingly this matter is before the undersigned administrative law judge pursuant to Michigan Administrative Hearing Rules (R 792.10101 – R 792.11903) and the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*

After due notice, a telephone hearing was held on December 3, 2015, from Detroit, Michigan. Petitioner was unrepresented. [REDACTED] appeared as a Bengali translator for Petitioner. Petitioner's son, [REDACTED], also appeared as a translator. MDHHS was represented by [REDACTED], specialist.

Hearings were requested for Petitioner (registration # 15-016271) and [REDACTED], Petitioner's 16-year-old son (registration # 15-016549). This administrative decision is applicable to both hearing requests.

ISSUE

The issue is whether MDHHS properly determined Petitioner's and her son's immigration/citizenship status concerning Medical Assistance (MA) eligibility.

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 an unspecified date, MDHHS determined Petitioner was eligible for emergency-services-only (ESO) Medicaid, effective April 2014, due to Petitioner and her son failing to meet immigration status/citizenship requirements.
2. During the time in dispute, Petitioner and her son were not eligible for MA benefits as a qualified alien or United States citizen.
3. On August 27, 2015, Petitioner requested a hearing to dispute the determination of ESO Medicaid eligibility.

CONCLUSIONS OF LAW

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), Modified Adjusted Gross Income (MAGI) manual, and Related Eligibility Manual (REM).

Prior to a substantive analysis, it should be noted that two translators were utilized during the hearing. The hearing commenced with a translator from Linguistica International who was recruited by MDHHS. Shortly after the hearing began, Petitioner expressed a preference to continue the hearing using her son as a translator. The hearing was performed in full while utilizing Petitioner's translator preference.

Petitioner requested a hearing to dispute a determination of Medicaid eligibility. MDHHS testimony indicated that the MA eligibility dispute began in April 2014. During the hearing, Petitioner was asked which month was the earliest month in dispute; Petitioner was unable to say. Based on the un rebutted MDHHS statement that the dispute began April 2014, that will be the earliest month considered to be in dispute.

Petitioner specifically disputed a restriction to her Medicaid eligibility limiting her to ESO. MDHHS testimony initially indicated that all months that Petitioner received ESO coverage were converted to full Medicaid on October 12, 2015. Petitioner responded that full Medicaid coverage was only issued for a single month. Petitioner says she believed her coverage was cut because her doctor told her so. MDHHS testimony eventually conceded that Petitioner's Medicaid eligibility was only upgraded for April 2014 through September 2015. MDHHS did not verify their testimony with documentary support.

Due the lack of documentary verification, it will be found that Petitioner's MA eligibility remains in dispute since April 2014. It was not disputed that the basis for restricting Petitioner's Medicaid eligibility to ESO was Petitioner's immigration status.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. BEM 225 (October 2014), p. 2. 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. *Id.* For MA benefits, qualified alien status can also be met for aliens admitted into the U.S. with a class code on the I-551 other than RE, AM or AS. *Id.*, p. 7. For non-qualified aliens, MA eligibility is limited to emergency services only for the first five years in the United States. *Id.*, p. 8. Any of the following persons are considered to have an acceptable alien status (*Id.* pp. 3-4, 5-9, 11-19, 31-33):

- United States citizens (includes those born in Puerto Rico)
- born in Canada and at least 50% American Indian
- member of American Indian tribe
- qualified military alien, spouse or child of qualified military alien,
- refugee under Section 207
- asylee under Section 208
- Cuban/Haitian entrant
- Amerasian
- victim of trafficking
- permanent resident alien with class code of RE, AS, SI or SQ
- permanent resident alien and has I-151
- deportation withheld (under certain conditions)
- granted conditional entry under 203(a)(7)
- paroled under 212(d)(5) for at least one year (under certain conditions)
- battered aliens, if more than five years in the United States
- permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than 5 years

Petitioner testified she came to the United States from [REDACTED]. It is presumed that Petitioner's son also came from [REDACTED]. [REDACTED] is not a country for which exceptions to ESO coverage exist.

Petitioner's permanent resident category code was F41. The category is understood to apply to persons who are a brother or sister of a United States citizen. It is presumed that Petitioner's son entered the United States for a comparable reason. Being a relative of a United States citizen does not qualify Petitioner (not her son) for full Medicaid eligibility.

Petitioner's date of United States entry was October 21, 2011. Petitioner's son testified his date of entry was the same as his mother's. As of the date of hearing, Petitioner and her son were in the United States less than 5 years.

Presented evidence failed to indicate any other exceptions to ESO coverage (e.g. Petitioner was a victim of human trafficking or amassed sufficient work credits) are applicable. It is found that Petitioner and her son do not have an acceptable alien status qualifying for full Medicaid during the first five years since United States entry. Accordingly, it is found that MDHHS properly restricted Petitioner and her son to ESO coverage.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly restricted Petitioner's and Petitioner's son's Medicaid eligibility to ESO, effective April 2014. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: 12/07/15
Date Mailed: 12/07/15

CG/tm

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.

cc:

