

**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.: 15-019837
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: December 16, 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 3-way telephone hearing was held on December 16, 2015, from Detroit, Michigan. Petitioner was unrepresented. MDHHS was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly restricted Petitioner's and Petitioner's spouse's Medical Assistance (MA) eligibility to emergency-services-only (ESO) due to immigration/citizenship status.

FINDINGS OF FACT

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

1. Petitioner was an ongoing Medicaid recipient.
2. On an unspecified date, MDHHS determined Petitioner and Petitioner's spouse to be eligible for Medicaid (ESO), effective September 2014.
3. On an unspecified date, Petitioner was ineligible for MA benefits, effective October 2014, for reasons unrelated to her citizenship/qualified alien status.

4. On August 26, 2015, Petitioner requested a hearing to dispute 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).

Petitioner's hearing request indicated she had an authorized hearing representative. Petitioner's AHR did not appear for the hearing. During the hearing, Petitioner agreed to waive her right to representation and the hearing was conducted accordingly.

Petitioner requested a hearing to dispute Medicaid eligibility for her, her spouse, and her minor child. Petitioner requested a hearing on a hearing request form specifically designed for clients to dispute ESO restrictions to Medicaid eligibility.

MDHHS testimony indicated Petitioner applied for Medicaid eligibility at various times. MDHHS testimony also indicated that Petitioner's applications and/or ongoing eligibility was denied or terminated for reasons such as excess income, excess assets, and/or failures to return documents.

It should be noted that the jurisdiction of the present hearing is limited only to disputes of ESO eligibility. Had Petitioner sought a hearing concerning any other actions by MDHHS, Petitioner could have submitted the hearing request corresponding to the MDHHS action in dispute. The analysis of this hearing decision will only consider those months which MDHHS restricted Petitioner's (and her family's) MA coverage to ESO.

MDHHS presented Medicaid Eligibility documents (Exhibits 15-7) dated September 15, 2015. The documents include the type of MA eligibility, if any, for which Petitioner was eligible. The documents indicated Petitioner had full Medicaid coverage from November 2012 through August 2014. It was also indicated that Petitioner's eligibility was restricted to ESO in September 2014, and that MDHHS terminated Petitioner's MA eligibility beginning October 2014. MDHHS provided credible testimony that Petitioner's spouse's MA coverage mirrored his wife's coverage. MDHHS also provided credible testimony that Petitioner's minor child had no ESO restrictions. As September 2014 was the only month where Petitioner's coverage was restricted, this decision will limit Petitioner's dispute to her coverage from September 2014.

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

MDHHS testimony indicated Petitioner and her spouse were properly restricted to ESO coverage. Petitioner contended otherwise.

Petitioner credibly testified she became a United States citizen in 2015. Though Petitioner's achievement was laudable, it has no bearing on an ESO restriction from September 2014, other than verifying she was not a citizen at that time. This was also verified by Petitioner's benefit application dated August 28, 2014 (Exhibit 8) whereby Petitioner stated she was not a citizen.

Petitioner testified her family came from [REDACTED] and entered the United States on March 3, 2010. Accepting Petitioner at her word, she would not have been in the United States for 5 years as of September 2014.

During the hearing, Petitioner was asked what her green card category was. Petitioner indicated her category was [REDACTED] though she seemed to have difficulty reading the copy of her green card. The category does not appear to be an exception to the general rule that immigrants in the United States for less than 5 years are eligible only for Medicaid restricted to ESO.

Presented evidence failed to indicate any other exceptions to ESO coverage (e.g. Petitioner was a victim of human trafficking) are applicable. It is found that Petitioner and her spouse 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's and her husband's MA coverage to ESO for the month of September 2014.

It should be noted that there appears to be no basis for further ESO restrictions as Petitioner is now a United States citizen and/or her family have spent more than 5 years in the United States. Petitioner was encouraged to reapply for MA coverage, though she was warned that meeting immigration requirements only overcomes one factor of Medicaid eligibility. Petitioner must still meet all other Medicaid eligibility factors (e.g. income, assets, residency...).

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 husband's Medicaid eligibility to ESO for the month of September 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: 12/17/15

Date Mailed: 12/17/15

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:

