



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 11, 2016
MAHS Docket No.: 15-019848
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 March 10, 2016, from Detroit, Michigan. Petitioner was unrepresented. [REDACTED] of [REDACTED] appeared as a translator for Petitioner. MDHHS was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly restricted Petitioner'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. On an unspecified date, MDHHS determined Petitioner was eligible for emergency-services-only (ESO) Medicaid, for an unspecified month, due to failing to meet immigration status/citizenship requirements.

2. During the time in dispute, Petitioner was eligible to receive unrestricted MA benefits.
3. On [REDACTED] 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).

Petitioner requested a hearing to dispute a restriction of ESO to her Medicaid eligibility. Petitioner testified she thought the restriction began in January 2015, however, she was not certain of the date. MDHHS testimony indicated the restriction began in 2012. For purposes of this decision, it will be found that Petitioner intended to dispute her MA eligibility since January 2014, the earliest month Petitioner can dispute (per federal order).

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. 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

During the hearing, MDHHS testimony conceded that Petitioner was entitled to Medicaid without restriction for all months in dispute. MDHHS contended all disputed Medicaid eligibility months were corrected.

MDHHS presented an undated Medicaid Eligibility document (Exhibit 1, p. 1) for Petitioner. Medicaid Eligibility documents summarize a client's Medicaid issuance history. Petitioner's Medicaid Eligibility stated Petitioner received Healthy Michigan Plan for the months from June 2014 through April 2015. The document did not address Petitioner's Medicaid status for months from January 2014 through May 2014 or May 2015.

MDHHS presented a Benefit Notice (Exhibit 1, pp. 2-3) mailed to Petitioner and dated [REDACTED]. The notice stated, "Upon review of your Medicaid case it has been determined that Lana Beshoory is eligible for full coverage effective 1/2015-8/2015." The notice also stated that Petitioner's case "has been updated."

The presented Benefit Notice is essentially a notice. It only verified that MDHHS mailed Petitioner notice that her case should be corrected. It does not verify that previous restrictions to Petitioner's MA eligibility were corrected.

Based on presented evidence, MDHHS verified some of Petitioner's Medicaid history was upgraded to Medicaid without restriction. MDHHS failed to verify that the months from January 2014 through May 2014 and May 2015 were upgraded to full Medicaid (if previously restricted to ESO).

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly restricted Petitioner's MA eligibility to ESO. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) remove any ESO restrictions, if any, to Petitioner's Medicaid eligibility for the months from January 2014 through May 2014 and May 2015; and
- (2) issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]