

**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.: 15-020689
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 16, 2016
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 [REDACTED], from Detroit, Michigan. Petitioner was represented by her spouse, [REDACTED] of [REDACTED] appeared as a [REDACTED] 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, effective September 2014, due to failing to meet immigration status/citizenship requirements.
2. During the time in dispute, Petitioner was eligible to receive unrestricted MA benefits.

3. Petitioner continued to receive Medicaid restricted to ESO through May 2015.
4. 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. It was not disputed that Petitioner's Medicaid eligibility was restricted to ESO beginning 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

During the hearing, MDHHS testimony conceded that Petitioner was entitled to Medicaid without restriction. Thus, the analysis need not address whether Petitioner was eligible to receive Medicaid without restriction.

MDHHS also presented testimony that Petitioner's MA eligibility was corrected and her Medicaid eligibility since September 2014 is no longer restricted to ESO. MDHHS testimony indicated that proof of the correction was forwarded to the Michigan Administrative Hearings System (MAHS) and mailed to Petitioner. During the hearing, Petitioner's AHR credibly testified he did not receive the hearing packet which contained the documentation verifying the updated full Medicaid coverage. Based on Petitioner's AHR's testimony the documentation appearing to verify full Medicaid coverage for Petitioner was not admitted as an exhibit. Accordingly, it cannot be found that MDHHS corrected Petitioner's Medicaid coverage. MDHHS will be ordered to issue full Medicaid coverage as part of this decision.

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 perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's MA eligibility from September 2014 through May 2015, subject to the finding that Petitioner's immigration status qualified her for Medicaid without ESO restriction; and
- (2) issue any benefits improperly not issued.

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



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

Date Signed: **FEBRUARY 22, 2016**

Date Mailed: **FEBRUARY 22, 2016**

CG / hw

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:

