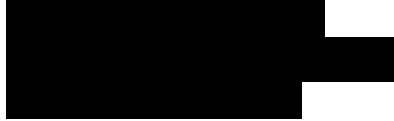


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-022730
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 21, 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 such 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 January 21, 2016, from Detroit, Michigan. Petitioner did not participate in the hearing. Petitioner was represented by his spouse, Nrmn Al Nawfali. MDHHS was represented by [REDACTED] specialist. [REDACTED] International appeared as an [REDACTED] translator for Petitioner's authorized hearing representative (AHR)

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. On an unspecified date, MDHHS determined Petitioner and Petitioner's spouse were eligible for emergency-services-only (ESO) Medicaid, for various months, due to their failure to meet immigration status/citizenship requirements.

2. During the time in dispute, Petitioner and his spouse were eligible for MA benefits as a qualified alien or United States citizen.
3. On [REDACTED], Petitioner requested a hearing to dispute ESO Medicaid eligibility.
4. On various dates, MDHHS removed all restrictions to months previously restricting Medicaid to ESO.

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 Medicaid restriction of ESO. The hearing scheduled for [REDACTED], was only intended to address Petitioner's MA eligibility. Petitioner's wife (also Petitioner's AHR) testified that her MA eligibility was also in dispute. There was no indication on Petitioner's hearing request that the Medicaid eligibility of his wife was being disputed; in fairness to Petitioner, the hearing request form does not ask if Medicaid eligibility of a family member is disputed.

MDHHS testimony indicated Petitioner's spouse's Medicaid eligibility was improperly restricted to ESO coverage for unspecified months. MDHHS testimony also indicated the coverage was upgraded to full Medicaid coverage. MDHHS forwarded Medicaid Eligibility (Exhibit 1, pp. 1-3) documents which verified that Petitioner's spouse has no ESO restriction in months she was approved for Medicaid.

MDHHS testimony also indicated that Petitioner's spouse was well aware of the correction. MDHHS testimony indicated Petitioner's spouse previously withdrew a hearing request made on her behalf. Records from the Michigan Administrative Hearings System (MAHS) verify that Petitioner's spouse withdrew a hearing request related to a hearing scheduled for November 4, 2015.

It is found that there is no jurisdiction to address Petitioner's spouse's MA eligibility dispute. The analysis will proceed to address Petitioner's Medicaid eligibility.

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

MDHHS testimony indicated Petitioner's Medicaid eligibility was restricted, however, it has since been upgraded to full Medicaid eligibility. Petitioner's AHR's testimony initially did not concede that a correction of Petitioner's Medicaid eligibility occurred. Later Petitioner's AHR's testimony conceded that she had no dispute concerning her spouse's Medicaid eligibility. The testimony equated to a withdrawal of the hearing request.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that there is no jurisdiction to address the Medicaid eligibility of Petitioner's spouse. The administrative law judge further finds that Petitioner's AHR has no ongoing dispute concerning Petitioner's Medicaid eligibility.

Petitioner's hearing request is **DISMISSED**.



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

Date Signed: **1/26/2016**

Date Mailed: **1/26/2016**

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. 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:

