



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: April 13, 2016
MAHS Docket No.: 15-025158
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 April 7, 2016, from Detroit, Michigan. Petitioner was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist. [REDACTED] of [REDACTED] appeared as a [REDACTED] translator for Petitioner.

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 [REDACTED], MDHHS determined Petitioner to be eligible for Medicaid restricted to ESO, effective, March 2015.

2. During the time in dispute, Petitioner was eligible for unrestricted Medicaid benefits.
3. On [REDACTED], Petitioner requested a hearing to dispute the ESO restriction to Medicaid eligibility.
4. As of [REDACTED], MDHHS issued unrestricted Medicaid coverage to Petitioner for the months from March 2015 through March 2016.

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 an ESO restriction of Medicaid eligibility. Petitioner's hearing request did not specify which months were disputed.

MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-3) dated [REDACTED]. The notice indicated MDHHS imposed an ESO restriction to Petitioner's Medicaid eligibility, effective March 2015. A begin date of March 2015 would be consistent with a MA application date from March 2015; un rebutted MDHHS testimony indicated March 2015 was when Petitioner applied for MA benefits.

It is found MDHHS imposed an ESO restriction to Petitioner's MA eligibility beginning March 2015. MDHHS testimony indicated the ESO restriction was imposed based on Petitioner not being a citizen and/or not having a qualified 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

MDHHS presented a copy of Petitioner's permanent resident card (Exhibit 1, p. 9). The card verified Petitioner was a resident of the United States since 2000. As a resident of the U.S. for more than 5 years, Petitioner's immigration status qualifies her for unrestricted Medicaid.

MDHHS testimony agreed that Petitioner's Medicaid eligibility should not have been restricted. MDHHS testimony also indicated that previous ESO restrictions to Petitioner's Medicaid coverage were removed.

MDHHS presented Medicaid Eligibility documents (Exhibit 1, pp. 5-7) dated [REDACTED]. Medicaid Eligibility documents summarize a person's Medicaid eligibility for past months. The documents verified Petitioner received "Healthy Michigan Plan" (the functional equivalent of full Medicaid) as a "Permanent resident alien" for the months from March 2015 through March 2016. The documentation sufficiently verified any improper ESO restrictions to Petitioner's Medicaid eligibility were corrected.

As a courtesy to Petitioner, her current Medicaid eligibility was discussed. MDHHS indicated Petitioner's Medicaid coverage stopped (presumably in March 2016) after Petitioner failed to timely return redetermination documents. Petitioner will have to separately request a hearing to dispute the Medicaid closure; alternatively, she can reapply for Medicaid.

The eventual upgrade to full Medicaid for the months from March 2015 through March 2016 is not very beneficial to Petitioner. The upgrade does not allow Petitioner to utilize medical services during a time when Medicaid was active. Though the eventual upgrade of Petitioner's MA eligibility was not ideal, it is the maximum remedy Petitioner can receive.

It is found MDHHS resolved Petitioner's MA eligibility dispute. Accordingly, Petitioner's hearing request is aptly dismissed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS issued full Medicaid coverage to Petitioner for the period from March 2015 through March 2016. Petitioner's hearing request is **DISMISSED**.

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]