



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.: 15-025445
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 from January 2014 through 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 appeared and was represented by her sister-in-law, [REDACTED] 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. Petitioner entered the United States in August 2010.
2. On an unspecified date, MDHHS issued ESO restricted MA benefits to Petitioner, effective March 2015.

3. On an unspecified date, MDHHS issued unrestricted Medicaid to Petitioner beginning August 2015.
4. On [REDACTED], 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 requested a hearing to dispute an ESO restriction to Medicaid eligibility. Petitioner's hearing request did not specify which months were disputed.

MDHHS presented credible testimony that Petitioner applied for Medicaid benefits in March 2015. An application date from March 2015 is consistent with a determination of eligibility beginning March 2015. The testimony was consistent with Petitioner's Medicaid eligibility history (Exhibit 1, pp 1-2) listing March 2015 as the earliest month between January 2014 and May 2015 when Petitioner received Medicaid.

It is found MDHHS imposed an ESO restriction against Petitioner beginning March 2015. It was not disputed that MDHHS imposed the ESO restriction based on Petitioner's immigration status.

Petitioner testimony implied that she is entitled to full Medicaid based on her need. She credibly testified that she is a victim of domestic violence and currently resides in a domestic violence shelter. MDHHS policy does not factor domestic violence in whether ESO Medicaid restrictions are imposed.

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 presented Petitioner's permanent resident card (Exhibit 1, p. 3). The card contained information on which MDHHS relied in restricting Petitioner's Medicaid coverage.

Petitioner arrived to the United States from Bulgaria. Petitioner's native country is not one which grants Petitioner qualified immigration status for unrestricted Medicaid.

Petitioner testified her U.S. entry was granted based on marriage to a United States citizen. Petitioner's testimony was consistent with her category code of IR6. Petitioner's basis for U.S. entry does not qualify her for full Medicaid.

Petitioner's date of U.S. entry was [REDACTED]. Petitioner's date of U.S. entry would entitle her to Medicaid no earlier than August 2015. MDHHS testimony indicated that is precisely when unrestricted Medicaid was issued to Petitioner.

Petitioner's Medicaid history verified Petitioner was restricted to "Emergency Medicaid Services" from March 2015 through July 2015. Petitioner was issued "Healthy Michigan Plan" or "Full Medicaid Coverage" for the months from August 2015 through February 2016. It is found MDHHS properly restricted Petitioner's Medicaid eligibility for the months from March 2015 through July 2015.

As a courtesy, Petitioner's ongoing Medicaid eligibility was discussed. MDHHS testimony indicated Petitioner's Medicaid recently ended due to Petitioner's failure to complete and return documents needed to redetermine eligibility. Petitioner will have to separately request a hearing if the Medicaid closure is disputed; alternatively, Petitioner can always reapply for Medicaid.

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 Medicaid eligibility to ESO for the months from March 2015 through July 2015. The actions taken by MDHHS are **AFFIRMED**.

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]