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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 9, 2016
MAHS Docket No.: 15-025701
Agency No.: [REDACTED]
Petitioners: [REDACTED], [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 September 6, 2016, from Detroit, Michigan. The above-captioned Petitioner appeared and represented her spouse and son. The above-captioned Petitioner's son, [REDACTED] also testified. MDHHS was represented by [REDACTED], specialist.

A single hearing was conducted concerning three different hearing requests; the requests were for the above-captioned Petitioner (registration # 15-025701), her spouse ([REDACTED], registration # 15-025700), and her child [REDACTED], registration # 15-025699). This hearing decision is controlling on all three petitioners. The three petitioners will be referenced as "Petitioners", for purposes of this decision.

ISSUE

The issue is whether MDHHS properly restricted Petitioners' Medical Assistance (MA) eligibility to emergency-services-only (ESO).

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 Petitioners were eligible for ESO-Medicaid, effective [REDACTED].
2. During the time in dispute, Petitioners were not eligible for unrestricted Medicaid due to a lack of citizenship/immigration status.
3. On [REDACTED], Petitioners requested a hearing to dispute the restriction 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).

Petitioners requested a hearing to dispute an ESO-restriction on Medicaid eligibility. The hearing request did not identify which benefit month was disputed. The testifying Petitioner was uncertain when the ESO restriction to Medicaid began. MDHHS testimony indicated Petitioners each applied for Medicaid in [REDACTED], including 3 months of retroactive MA coverage. MDHHS' testimony was credible and un rebutted.

It is found Petitioners intended to dispute an ESO-restriction of Medicaid from [REDACTED]. It was not disputed that MDHHS restricted Petitioners' MA eligibility due to 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. 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
- 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

Testimony from two of the petitioners contended a green card and valid Social Security number qualified each petitioner for unrestricted Medicaid. MDHHS policy does not support the contention.

It was not disputed Petitioners arrived to the United States from [REDACTED] Arrival from [REDACTED] does not grant Petitioners qualified immigration status for unrestricted Medicaid.

It was not disputed Petitioners were granted United States entry for being a relative to a United States citizen. The basis for U.S. entry does not justify issuance of unrestricted Medicaid to Petitioners.

Each Petitioner's date of U.S. entry was [REDACTED]. The date of entry would not justify issuance of unrestricted Medicaid to Petitioners before September 2019. Other circumstances supporting issuance of unrestricted Medicaid were not alleged.

It was curious that MDHHS testimony indicated Petitioners received unrestricted Medicaid for a limited period. MDHHS credibly indicated the issuance was erroneous. It is found MDHHS properly restricted Petitioners' Medicaid eligibility to ESO, effective [REDACTED].

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly restricted Petitioners' Medicaid eligibility to ESO beginning [REDACTED]. The actions taken by MDHHS are **AFFIRMED**.

Christian Gardocki

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]