

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022875
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 10, 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 February 10, 2016, from Detroit, Michigan. Petitioner was represented by her mother, Asma Begum. MDHHS was represented by Angela Calogerakis, specialist. Pradip Das of Linguistica International appeared as a Bengali translator for Petitioner's mother.

A single hearing was conducted concerning three different hearing requests; the requests were for Petitioner (registration # 15-022875), Petitioner's mother ([REDACTED]) (registration # 15-022874), and Petitioner's father ([REDACTED]) (registration # 15-022873). This hearing request is only applicable to Petitioner.

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. Petitioner was an ongoing Medicaid recipient.

2. On an unspecified date, MDHHS determined Petitioner to be eligible for Medicaid restricted to ESO, effective January 2014.
3. On an unspecified date, MDHHS issued unrestricted Medicaid coverage to Petitioner, effective December 2014.
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 of Medicaid eligibility. Petitioner's hearing request did not specify which months were disputed. Petitioner's mother's testimony did not clarify which months of coverage were disputed. For purposes of this decision, it will be presumed that all months eligible for dispute (January 2014, - May 2015) are being disputed.

MDHHS testimony indicated Petitioner received full Medicaid coverage since December 2014. The testimony was corroborated.

MDHHS presented Medicaid Eligibility documents (Exhibit 3, pp. 1-4). The documents reflect Petitioner's Medicaid eligibility history. The documents verified Petitioner received "Full Medicaid Coverage" since December 2014. Petitioner's hearing request will be dismissed concerning Medicaid since December 2014 as MDHHS favorably resolved Petitioner's dispute for those months.

It was not disputed that MDHHS continued the restriction of Medicaid to Petitioner's eligibility before December 2014. Petitioner's mother contended that her daughter's eligibility should be unrestricted because her daughter is often sick. The contention is irrelevant to whether an ESO restriction is apt.

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 a copy of Petitioner's daughter's permanent resident card. The card verified Petitioner came from Bangladesh. The category code on the card was not legible, however, Petitioner testified the code was F23; this code reflects a green card status based on being the child of a person with green card status. Neither Petitioner's country of origin or basis for United States entry entitle Petitioner to receive unrestricted Medicaid during her first 5 years in the United States.

Petitioner's date of United States entry was [REDACTED]. Thus, Petitioner is not entitled to unrestricted Medicaid any sooner than March 2015. It is found MDHHS properly restricted Petitioner's Medicaid eligibility to ESO from before December 2014.

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 since December 2014. Petitioner's hearing request is **PARTIALLY DISMISSED**.

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 January 2014 through November 2014. The actions taken by MDHHS are

AFFIRMED.

Christian Gardocki

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

Date Signed: **February 11, 2016**

Date Mailed: **February 11, 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:

