



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: March 18, 2016
MAHS Docket No.: 15-022769
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 March 16, 2016, from Detroit, Michigan. Petitioner was represented by her mother, [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. On [REDACTED], Petitioner applied for MA benefits, including a request for retroactive MA benefits from February 2015.
2. On [REDACTED], MDHHS determined Petitioner to be eligible for Medicaid restricted to ESO, effective April 2015.

3. During the time in dispute, Petitioner was not eligible as a qualified alien or United States citizen for Medicaid without restriction.
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 Medicaid eligibility. Petitioner's hearing request did not specify which months were disputed. MDHHS presented unrebutted testimony that Petitioner applied for MA benefits in May 2015 and was approved for Medicaid beginning February 2015 (presumably Petitioner's application requested 3 months of retroactive MA benefits). MDHHS' testimony was consistent with a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) dated [REDACTED], which stated Petitioner was approved for ESO Medicaid beginning February 2015. The month of February 2015 will be considered the first month in dispute.

Petitioner requested a hearing to dispute an ESO restriction to Medicaid eligibility. MDHHS testified the ESO restriction was imposed based on Petitioner's 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
- 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 from the Democratic Republic of Congo. Petitioner's native country is not one which grants Petitioner qualified immigration status for unrestricted Medicaid.

Petitioner's date of U.S. entry was April 6, 2015. As a resident of less than 5 years, Petitioner was not eligible for Medicaid based on time within the United States.

Petitioner's resident card's category code was "FX2." The category code is understood to allow entry based on being a child of a permanent resident. The basis for U.S. entry does not qualify Petitioner for full Medicaid.

Petitioner's mother credibly testified she became a citizen of the United States in January 2016. Petitioner's mother also forwarded her citizenship documents. For purposes of this decision, it will be presumed that Petitioner's mother is a United States citizen as of January 2016.

The jurisdiction of this hearing is limited to ESO restrictions imposed on Petitioner for the months from January 2014 through May 2015. Petitioner's mother's later citizenship has no effect on her daughter's failure to meet MDHHS' citizenship requirements for full Medicaid for the months in dispute.

During the hearing, Petitioner's mother was advised to forward her citizenship documents to MDHHS. If Petitioner's mother is dissatisfied with the MDHHS response, she was advised that she should then request a hearing.

It is found that Petitioner did not have qualified immigration status for full Medicaid for the months from January 2014 through May 2015. Accordingly, the ESO restriction imposed on Petitioner was proper.

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 February 2015 through May 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]