



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 7, 2016  
MAHS Docket No.: 15-024577  
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 2, 2016, from Detroit, Michigan. Petitioner was unrepresented. [REDACTED], Petitioner's wife, testified on behalf of Petitioner. [REDACTED] appeared as an [REDACTED] translator for Petitioner and his spouse. 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 submitted an application (Exhibit 1, pp. 3-21) to MDHHS requesting MA benefits.

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 a Health Care Coverage Determination Notice (Exhibit 1, pp 1-2) dated [REDACTED]; the notice stated Petitioner was eligible for ESO Medicaid beginning April 2015. An MA effective benefit month of April 2015 is consistent with an MA application submitted to MDHHS in April 2015 (see BAM 115). The month of April 2015 will be considered the first month in dispute.

Though Petitioner was eligible for Medicaid, Petitioner disputed the ESO restriction. 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. 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

Petitioner's spouse testified her husband's date of U.S. entry was [REDACTED]. As a resident of less than 5 years, Petitioner was not eligible for Medicaid based on his time in the United States.

Petitioner's spouse testified that the basis for her husband's entry was "family unity." Though Petitioner's specific category code is not known, "family unity" does not qualify Petitioner for full Medicaid.

Petitioner testified he arrived to the United States from [REDACTED]. [REDACTED] is not a country suggestive of an exception to requiring United States residency for five years before issuance of unrestricted Medicaid.

Petitioner alleged he was a United States Citizen as of [REDACTED]. The testimony was not verified, but even if accepted as a fact, it does not alter the ESO restriction imposed on Petitioner's Medicaid eligibility through at least November 2015. The jurisdiction of the present hearing is limited to ESO eligibility through May 2015. Petitioner was advised to request a hearing concerning disputes in Medicaid eligibility following May 2015. It is found MDHHS properly restricted Petitioner's Medicaid eligibility to ESO for the months of April 2015 and May 2015.

### **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 April 2015 and May 2015. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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**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]