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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 24, 2016
MAHS Docket No.: 15-024661 15-025165
Agency No.: [REDACTED]
Petitioners: [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 [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. MDHHS was represented by [REDACTED], specialist. [REDACTED] initially appeared as an [REDACTED] translator for Petitioner.

A single hearing was conducted concerning two different hearing requests; the requests were for Petitioner (registration # 15-024661), and Petitioner's daughter ([REDACTED] (registration # 15-025165). This hearing decision is controlling on both hearing requests.

ISSUE

The issue is whether MDHHS properly restricted Petitioner's and his daughter'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. Effective January 2014, Petitioner's daughter began receiving Medicaid subject to an ESO restriction.
2. Effective November 2014, Petitioner was eligible to receive Medicaid subject to an ESO restriction.
3. During the time in dispute, Petitioner's daughter was not eligible for Medicaid without restriction due to immigration status.
4. On [REDACTED], Petitioner requested a hearing to dispute the ESO restriction on his and his daughter's Medicaid eligibility.
5. On an unspecified date, MDHHS upgraded Petitioner to full Medicaid for the months from November 2014 through February 2016.

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).

It should be noted that Petitioner's hearing request indicated his primary language was Urdu. The hearing commenced with the use of a translator. During the hearing, the translator became unavailable. Petitioner agreed to complete the hearing without a translator and the hearing was conducted accordingly.

Petitioner requested a hearing to dispute an ESO restriction to Medicaid eligibility. It was not disputed that Petitioner's daughter's restriction began January 2014. It was not disputed that the ESO restriction began for Petitioner in November 2014. It was not disputed that the ESO restrictions were imposed because of the immigration status of Petitioner and his daughter.

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

Concerning Petitioner's ESO restriction, it was not disputed that MDHHS issued full Medicaid for the time from November 2014 through February 2016. It was curious that MDHHS re-imposed the ESO restriction beginning March 2016. MDHHS testimony indicated that the issuance of full Medicaid was granted only because Petitioner claimed to have qualified immigration status on his application; in reality, MDHHS claims, Petitioner lacked qualified immigration status for full Medicaid.

The jurisdiction of the present hearing is limited to ESO restrictions from January 2014 through May 2015. As it was not disputed that MDHHS eventually issued full Medicaid to Petitioner for all disputed months within the jurisdiction of this hearing, Petitioner's hearing request will be dismissed concerning the dispute of his own Medicaid eligibility.

MDHHS did not waver on Petitioner's daughter's ESO restriction. Thus, MDHHS continued the ESO restriction on Petitioner's daughter since January 2014. The analysis will continue to determine if the ESO restriction was proper.

Petitioner testified his daughter's date of U.S. entry was in September 2015. As a resident of less than 5 years, Petitioner's daughter was not eligible for Medicaid based on her time within the United States.

Petitioner testified that the basis for his daughter's entry was for family-related reasons. Family-related reasons do not qualify Petitioner's daughter for full Medicaid. Petitioner did not present any other reason which would qualify his daughter for full Medicaid. It is found MDHHS properly restricted Petitioner's daughter to ESO Medicaid.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS eventually issued full Medicaid to Petitioner for the months from November 2014 through May 2015. 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 daughter's Medicaid eligibility to ESO, effective January 2014. 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]

Petitioner

[REDACTED]