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GOVERNOR

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

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DIRECTOR



Date Mailed: April 21, 2016
MAHS Docket No.: 15-025497
15-025527 15-025849

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.*

A single hearing was conducted concerning three different hearing requests; the requests were for Petitioner (registration # 15-025497), Petitioner's wife ([REDACTED] - registration # 15-025527), and Petitioner's son ([REDACTED] - registration # 15-025849). This hearing decision is controlling on all three hearing requests.

After due notice, a 3-way telephone hearing was held on April 13, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. MDHHS was represented by [REDACTED], specialist. [REDACTED] of [REDACTED] ational appeared as an [REDACTED] translator for Petitioner.

ISSUE

The issue is whether MDHHS properly restricted Petitioner's, his wife's, and his son'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 for himself, his wife, and son.
2. On an unspecified date, MDHHS issued MA benefits to Petitioner and his family.
3. On an unspecified date, MDHHS imposed an ESO restriction to Petitioner's and his son's Medicaid eligibility, effective November 2014.
4. During the time in dispute, Petitioner and his family were not eligible as a qualified alien or United States citizen for Medicaid without restriction.
5. On [REDACTED], Petitioner, his spouse, and son each requested a hearing to dispute ESO restrictions imposed on 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, his spouse, and his son each requested hearings to dispute a restriction to Medicaid eligibility. None of the hearing requests indicated the months of Medicaid eligibility in dispute.

MDHHS presented Medicaid Eligibility documents (Exhibit 1, pp. 1-9) for each person requesting a hearing. Medicaid Eligibility documents list a client's Medicaid issuance history. Presented documents verified Petitioner and his son received "Full Medicaid Coverage" for the months from May 2014 through October 2014; restricted Medicaid was issued beginning November 2014 for both persons. Petitioner's spouse received "Full Medicaid Coverage" or "Healthy Michigan Plan" coverage from September 2014 through February 2016.

The jurisdiction of the present hearing is limited to disputes of ESO restriction from January 2014 through May 2015. Petitioner's spouse's hearing request will be

dismissed as no ESO restrictions were placed on her coverage during the time in dispute.

The analysis will continue to determine if MDHHS properly imposed restrictions beginning November 2014 to Petitioner and his son. MDHHS testimony contended the restrictions were proper based on Petitioner and his son's lack of citizenship or qualified 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

MDHHS presented permanent resident cards (Exhibit 1, pp. 10-11) for Petitioner and his son. The cards contained information on which MDHHS relied in restricting Petitioner's and his son's Medicaid coverage.

Petitioner arrived to the United States from [REDACTED]. Petitioner's son arrived from [REDACTED]. Neither country from which Petitioner and his son arrived automatically entitles either to Medicaid coverage without restriction.

Petitioner's date of U.S. entry was [REDACTED]. Petitioner's son's date of entry was [REDACTED]. Neither Petitioner nor his son have been in the United States for 5 years.

Thus, neither is entitled to Medicaid without restriction based on time spent within the United States.

Petitioner testified his United States entry was based on being a father of a United States citizen. Petitioner testified his immigration status allowed his son to enter the United States. Neither basis for United States entry entitles Petitioner or his son to Medicaid without restriction.

It was curious that MDHHS issued Medicaid without restriction to Petitioner's spouse when she also did not appear to meet MDHHS requirements for full Medicaid. MDHHS testimony credibly explained that Petitioner's spouse had a different specialist from Petitioner and his son and full Medicaid. MDHHS also explained that full Medicaid was issued erroneously to petitioner's spouse.

As a courtesy, Petitioner's spouse's ongoing Medicaid eligibility was discussed. Petitioner indicated his wife's Medicaid inexplicably stopped beginning March 2016. MDHHS testimony indicated the stoppage appeared to be improper as no written notice explaining the stoppage was issued. During the hearing, Petitioner was advised he could separately request a hearing about the stoppage or have his wife reapply. Online Arabic applications for MA are available at http://www.michigan.gov/documents/dhs/1171-Information_Booklet-application_AR__1-14__web_478539_7.pdf. It is found MDHHS properly restricted Petitioner's and his son's MA coverage to ESO beginning November 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 to Petitioner's spouse for the months from September 2014 through February 2016. Petitioner's spouse's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly restricted Petitioner's and his son's Medicaid eligibility to ESO beginning November 2014. The actions taken by MDHHS are **AFFIRMED**.



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

CG/hw

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]