



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 28, 2016
MAHS Docket No.: 15-025869
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 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 telephone hearing was held on April 20, 2016, from Detroit, Michigan. [REDACTED], Petitioner's spouse, appeared in place of Petitioner and testified on behalf of Petitioner. 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], MDHHS determined Petitioner to be eligible for Medicaid restricted to ESO, effective, January 2014.
2. During the time in dispute, Petitioner was eligible for unrestricted Medicaid benefits.

3. On [REDACTED], Petitioner requested a hearing to dispute the ESO restriction to Medicaid eligibility.
4. On [REDACTED], MDHHS issued unrestricted Medicaid coverage to Petitioner for the months from January 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).

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 submitted a hearing request to MDHHS on a form which was created in response to a federal court order concerning ESO restrictions to Medicaid. The maximum range of months eligible for dispute (per federal court order) are from January 2014 through May 2015. For purposes of this decision, it will be assumed that Petitioner intended to dispute the maximum range of benefit months. MDHHS testimony indicated the ESO restriction was imposed based on Petitioner not being a citizen and/or not having a 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. 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 that her husband entered the United States from [REDACTED] in 2012. She also testified that his basis for U.S. entry was his marriage to her. The testimony was indicative that Petitioner would not be eligible for full Medicaid until 2017.

MDHHS testimony indicated Petitioner was initially issued ESO-restricted Medicaid. MDHHS further testified Petitioner's Medicaid coverage was eventually upgraded despite evidence indicating an ESO restriction to Petitioner's Medicaid eligibility was proper.

MDHHS presented Medicaid Eligibility documents (Exhibit 1, pp. 3-7) dated [REDACTED], [REDACTED] Medicaid Eligibility documents summarize a person's Medicaid eligibility for past months. The documents verified Petitioner received "Healthy Michigan Plan" (the functional equivalent of full Medicaid) as a "Permanent resident alien" for the months from February 2013 through February 2016. The documentation sufficiently verified MDHHS upgraded Petitioner's Medicaid eligibility for all disputed benefit months.

It was curious that MDHHS upgraded Petitioner's Medicaid when he did not appear to be eligible for full Medicaid. MDHHS testimony indicated the upgrade was based on Petitioner's application statement that he was a qualified immigrant. MDHHS testimony further indicated that it was later discovered Petitioner was not eligible for full Medicaid, and the ESO restriction was reinstated beginning March 2016. The MDHHS testimony was credible and consistent with presented documents. It should be noted that the restriction of Petitioner's Medicaid eligibility from March 2016 is outside of the scope of the present hearing's jurisdiction.

It is found MDHHS resolved Petitioner's MA eligibility dispute. Accordingly, Petitioner's hearing request is dismissed.

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 for the period from

January 2014 through at least May 2015. Petitioner's hearing request is **DISMISSED**.

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]