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

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

Date Mailed: May 20, 2016
MAHS Docket No.: 15-026089
Agency No.: ███████
Petitioner: ███████

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 May 12, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ███████, specialist. ███████ appeared as a translator for Petitioner. Though a translator was available during the hearing, Petitioner chose to complete the hearing without using a translator.

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. Petitioner entered the United States on ███████.

2. On ███████, Petitioner applied for MA benefits.

3. On an unspecified date, MDHHS issued ESO-restricted Medicaid to Petitioner beginning August 2014.

4. On ███████████████, Petitioner requested a hearing to dispute the ESO restriction of Medicaid.

5. As of ██████████ MDHHS issued unrestricted Medicaid MA to Petitioner, effective September 2014.

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 to Medicaid eligibility. Petitioner's hearing request did not identify the months of MA in dispute.

MDHHS presented Petitioner's original Medicaid application (Exhibit 1, pp. 4-15) dated ███████████. An application month of August 2014 is consistent with a Medicaid issuance beginning August 2014. Petitioner testimony indicated he thought August 2014 was about when MDHHS imposed an ESO restriction to his Medicaid eligibility. It is found August 2014 is the first month of MA eligibility in dispute. It was not disputed that MDHHS imposed ESO restrictions to Petitioner's Medicaid eligibility 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 a copy of 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 to the United States from Lebanon. Petitioner's native country is not one which grants Petitioner qualified immigration status for unrestricted Medicaid.

Petitioner's category code was not legible, however, Petitioner testified he was granted U.S. entry so he may pursue an education. Petitioner's stated basis for U.S. entry does not qualify him for unrestricted Medicaid.

Petitioner's listed date of U.S. entry was ████████████. As of September 2014, Petitioner was a United States resident for 5 years. Petitioner's date of U.S. entry entitles him to Medicaid no earlier than September 2014. It is found MDHHS properly imposed an ESO restriction to Petitioner's Medicaid eligibility for August 2014.

MDHHS testimony conceded Petitioner's Medicaid eligibility was wrongly restricted after August 2014. As it happened, MDHHS eventually upgraded Petitioner's Medicaid coverage.

MDHHS presented documentation of Petitioner's Medicaid history (Exhibit 1, pp. 1-2) dated ██████████. The documents verified MDHHS issued "Healthy Michigan Plan" (the functional equivalent of Medicaid) as a "Permanent resident alien" to Petitioner for all months from September 2014 through July 2015.

Presented documentation sufficiently verified MDHHS issued unrestricted Medicaid after August 2014. The upgrade to unrestricted Medicaid justifies dismissal of Petitioner's hearing request for the period from September 2014 through July 2015.

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 for the moths from September 2014 through July 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 Medicaid eligibility to ESO for August 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:

<div align="center">
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139
</div>

DHHS

Petitioner