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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 29, 2016
MAHS Docket No.: 15-026779
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.*

A single hearing was conducted concerning three different hearing requests; the requests were for Petitioner (registration # 15-026779), and Petitioner's children ([REDACTED], 15-026774 and [REDACTED], 15-026775). This hearing decision is controlling on all three hearing requests.

After due notice, a 3-way telephone hearing was held on June 6, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. MDHHS was represented by [REDACTED], specialist. [REDACTED] and [REDACTED] of [REDACTED] appeared as [REDACTED] translators for Petitioner.

ISSUE

The issue is whether MDHHS properly restricted Petitioner's and her children'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. As of January 2014, Petitioner and her children were ongoing Medicaid recipients whose eligibility was restricted to ESO.
2. During the time in dispute, Petitioner and her children were not eligible as a qualified alien or United States citizen for Medicaid without restriction.
3. On [REDACTED], and shortly thereafter, Petitioner and her two children 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 and her two minor children requested hearings to dispute ESO restrictions to Medicaid coverage. Petitioner appeared as a representative for her minor children.

None of the hearing requests indicated the months of Medicaid eligibility in dispute. For purposes of this decision, it will be assumed that each dispute began January 2014, the earliest month available for dispute. MDHHS testimony indicated the restrictions were proper based on Petitioner's and her children'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. 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
- 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 testified that she and her children were permanent residents of the United States. Petitioner testified she and her children arrived to the United States from [REDACTED]. Arrival from [REDACTED] does not grant Petitioner or her children qualified immigration status for unrestricted Medicaid.

Petitioner testified that she and her children were granted United States entry based on her husband's status as a United States qualified alien or citizen. The basis for U.S. entry does not justify issuance of unrestricted Medicaid to Petitioner or her children.

Petitioner testimony eventually conceded that she and her children entered the United States in March 2013. The date of entry would not justify issuance of unrestricted Medicaid to Petitioner or her children before March 2018.

Petitioner testified that her children had various physical problems requiring medical attention not covered by ESO-restricted Medicaid. Unfortunately, the need for unrestricted Medicaid does not factor into whether Medicaid is restricted to ESO. Petitioner provided no basis to justify issuance of unrestricted Medicaid. It is found MDHHS properly restricted Petitioner's and her children's Medicaid eligibility, effective January 2014.

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 and her children's Medicaid eligibility to ESO beginning 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]