



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

Date Mailed: April 11, 2016
MAHS Docket No.: 16-001808
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 30, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner's minor children were eligible for Emergency Services Only (ESO) Medicaid (MA)?

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 December 8, 2015, Petitioner applied for MA for his three minor children (Exhibit A, pp. 2-17).
2. The minor children are all permanent residents. Their permanent residency cards show residency since November 5, 2011 and a category of F43 (Exhibit A, pp. 24, 27, 28).
3. On January 14, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that the children were eligible for ESO from October 1, 2015 ongoing (Exhibit A, pp. 29-32).

4. On February 5, 2016, the Department received Petitioner's request for hearing disputing the Department's actions (Exhibit A, pp. 41-46).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), and Department of Health and Human Services Emergency Relief Manual (ERM).

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 (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner filed a hearing request disputing his MA cases. At the hearing, he clarified that he was concerned about his children's MA cases. The Department established the children were approved for ESO coverage effective October 1, 2015 ongoing based on their immigration status.

To be eligible for full-coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2015), p. 2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30-31; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. Persons refusing to provide citizen/alien status information on the application or unable or refusing to provide satisfactory verification of alien information are limited to ESO coverage. BEM 225, p. 3. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In his December 8, 2015 application, Petitioner indicated that his children were naturalized or derived citizens and had eligible alien status (Exhibit A, pp. 6-8). The Department explained that, because it had copies of the children's permanent resident

cards that Petitioner had submitted in 2012, it relied on this documentation to determine the children's immigration status and to find that the children were eligible for ESO coverage only.

At the hearing, Petitioner confirmed that his children were permanent residents and were not naturalized or derived U.S. citizens. Petitioner confirmed that neither he nor his wife had served in the U.S. military. The children's permanent residency cards showed that they had permanent resident status since November 5, 2011 with a F43 category (Exhibit A, pp. 24, 27-28). Additional documentation available to the Department showed that the children had immigrant visas with issue dates of May 26, 2011 (Exhibit A, pp. 22-23). The visas indicate that, upon endorsement, the documents serve as temporary I-551s (permanent resident cards) evidencing permanent residence for one year. Therefore, although there was discussion on the record that the children's date of entry was November 2011, their actual date of entry was May 2011. However, because, at the time the Department determined the children's MA eligibility for December 1, 2015 ongoing, the children had not been permanent resident aliens for 5 years, their parents had not served in the U.S. military, and their permanent residency cards did not show eligible class codes, the children were not eligible for full-coverage MA.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner's children were eligible for ESO MA coverage.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

ACE/tlf



Alice C. Elkin
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

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[REDACTED]

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