



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 28, 2016
MAHS Docket No.: 16-011692
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on September 22, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility due to excess income.

The second issue is whether MDHHS properly restricted Petitioner's and his family's Medicaid eligibility to emergency-services-only (ESO).

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, his spouse and 2 children became permanent resident aliens of the United States
2. Petitioner's family's United States entry was based on Petitioner's work with the United States government.

3. Petitioner, his spouse, and 2 children were ongoing recipients of unrestricted Medicaid.
4. On an unspecified date in April 2016, Petitioner's spouse gave birth to Petitioner's third child, who was a United States citizen.
5. On an unspecified date, Petitioner applied for FIP benefits.
6. On [REDACTED] MDHHS denied Petitioner's FIP application, in part, based on exceeding the income level for a group size of 4 persons.
7. On [REDACTED], MDHHS determined Petitioner, his spouse and 2 non-citizen children were eligible for ESO Medicaid, effective August 2016.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute an application denial of FIP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner's FIP eligibility was denied due to excess income. BEM 515, BEM 518, and BEM 520 provide guidance on the details of FIP budgeting.

MDHHS factored Petitioner's undisputed gross employment income [REDACTED]. MDHHS issued a \$200+20% budget credit for employment income and determined Petitioner's FIP benefit net income to be [REDACTED]. Petitioner did not allege to have any applicable expenses. Petitioner's net income, for purposes of FIP eligibility, was calculated consistent with FIP budget guidelines.

The FIP benefit amount is calculated by determining the payment standard (i.e. the maximum FIP grant for the group size). The group's countable income is subtracted from the payment standard to determine the FIP grant.

MDHHS determined Petitioner's group's payment standard to be [REDACTED]. A [REDACTED] payment standard is apt for a group size of 4 persons (see RFT 210 (December 2013), p. 1). It was not disputed that Petitioner was a member of a group size of 5 persons (Petitioner, his spouse and three children). MDHHS testimony conceded that one of Petitioner's children was wrongly disqualified in the FIP determination; the concession was consistent with presented evidence.

It is found that MDHHS improperly denied Petitioner's FIP eligibility by failing to calculate the proper group size. MDHHS will be ordered to redetermine Petitioner's FIP eligibility using a 5-person FIP group. It should be noted that the redetermination of Petitioner's FIP application is expected to also result in a denial of FIP benefits as Petitioner's countable income (██████) appears to exceed the payment standard for a group of 5 persons (██████); nevertheless, that is a determination that must be made by MDHHS rather than by an administrative law judge.

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. MDHHS (formerly known as the Family Independence Agency) 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), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a restriction of Medicaid to ESO. MDHHS presented a Health care Coverage Determination Notice (Exhibit 1, p. 6) dated ████████. The notice states Petitioner, his spouse, and 2 firstborn children were eligible for Medicaid restricted to ESO beginning August 2016.

The MDHHS case summary contended the ESO restriction was proper because Petitioner, his spouse, and 2 firstborn children had not been United States residents for 5 years. The MDHHS contention is true, however, it failed to factor that unrestricted Medicaid is appropriate for other circumstances.

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

MDHHS presented copies of the green cards for Petitioner and his family. Petitioner's category code was SQ1. A category code of SQ1 is understood as appropriate for Iraqi immigrants who perform work for the United States government. Petitioner's spouse and his children also had category codes beginning with "SQ", based on their relationship to Petitioner. A category code of SQ is an exception to the general rule that immigrants are restricted to ESO Medicaid coverage during their first 5 years within the United States. Accordingly, the restriction to ESO placed upon Petitioner, his spouse, and two children is found to be improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly restricted Petitioner's family's Medicaid. It is further found MDHHS improperly determined Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's FIP application associated with a denial notice dated [REDACTED], and process the application subject to the finding that Petitioner was a member of a 5-person FIP benefit group; and
- (2) Remove the ESO restriction to Petitioner and his family's Medicaid, effective August 2016, subject to the finding that all group members are eligible full Medicaid.

The actions taken by MDHHS are **REVERSED**.

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]

[REDACTED]

Petitioner

[REDACTED]