



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: October 25, 2016
MAHS Docket No.: 16-013361
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 October 19, 2016, from Lansing, Michigan. [REDACTED] (Petitioner) appeared and was represented by his daughter and authorized hearing representative (AHR), [REDACTED]. [REDACTED], Eligibility Specialist (E.S.), represented the Department of Health and Human Services (Department). [REDACTED], E.S. and [REDACTED] (Assistance Payments Supervisor) also appeared for the Department.

The Department offered the following exhibits which were admitted into evidence: [Department's Exhibit 1: Petitioner's Permanent Resident Card (page 1), Permanent Resident Card (page 2), Health Care Coverage Determination Notice (pages 3-6), Assistance Application (pages 7-31).] Petitioner did not offer any exhibits into evidence. The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) or "Medicaid"?

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 is originally from Ukraine. [Department's Exhibit 1, p. 1].

2. Petitioner came to the United States from Ukraine in March, 2015. [Hearing Testimony]
3. On July 17, 2015, Petitioner submitted an online Assistance Application seeking health care coverage benefits. The application indicated that Petitioner was not a U.S. citizen, but did not indicate whether he had eligible immigration status. [Dept. Exh. 1, pp. 7, 9].
4. Petitioner became a permanent US resident on October 8, 2015. [Dept. Exh. 1, p. 1].
5. On August 30, 2016, the Department mailed Petitioner a Health Care Coverage Determination Notice which indicated that Petitioner was eligible for Emergency Services Only (ESO) MA benefits effective October 1, 2016. The notice indicated that Petitioner does not qualify for full health care coverage because he is not a U.S. citizen or eligible immigrant. [Dept. Exh. 1, pp. 3-6].
6. Petitioner's AHR requested a hearing to dispute the Department's decision to provide ESO rather than full MA.

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), 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.

Policy requires the Department determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (10-1-2015), p. 1.

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. BEM 225, p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. A person claiming U.S. citizenship is not eligible for ESO coverage. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225, p. 2.

MA coverage is limited to emergency services for any: (1) persons with certain alien statuses or U.S. entry dates as specified in policy; (2) persons refusing to provide citizenship/alien status information on the application; and/or (3) persons unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services. BEM 225, p. 3.

Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. Eligibility may depend on whether or not the person meets the definition of a Qualified Alien. BEM 225, p. 3. "Qualified alien" means an alien who is lawfully admitted for **permanent residence** under the INA, granted asylum under Section 208 of the INA, a **refugee** who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants, **paroled** into the U.S. under Section 212(d)(5) of the INA for a period of at least one year, an alien whose deportation is being **withheld** under Section 241(b)(3) or 243(h) of the INA, granted **conditional entry** pursuant to Section 203(a)(7) of the INA, a **Cuban/Haitian** entrant, or an alien who has been **battered** or subjected to **extreme cruelty** in the U.S. by a U.S. citizen, or a **legal permanent resident spouse or parent**, or by a member of the spouse or parent's family living in the same household, or is the parent or child of a battered person. BEM 225, p. 4 (Emphasis added).

For MA, an individual who does not meet the above, is limited to emergency services for the first five years in the U.S. BEM 225, p. 8.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. During the hearing, Petitioner's AHR argued that Petitioner had medical problems and needed full health care coverage. The Department did not dispute that Petitioner had medical problems, but the Department argued that he was not eligible for full MA due to BEM 225. At the hearing, Petitioner's AHR did not dispute that Petitioner had been in the U.S. for less than 5 years and that Petitioner is not a qualified alien because he failed to meet the above requirements under BEM 225. The core operative facts were not in dispute. Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that Petitioner is not eligible for full MA, but is eligible for ESO.

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 was eligible for ESO rather than full MA benefits.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]