



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: April 20, 2017
MAHS Docket No.: 17-002176
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie for Michael Bennane

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 15, 2017, from Detroit, Michigan. The Petitioner was represented by himself and an interpreter, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator. This hearing was held by ALJ Michael J. Bennane, but written by ALJ Carmen G. Fahie.

ISSUE

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner and his family entered the United States on February 18, 2016 as Permanent Residents, which only allows them to be eligible for MA ESO only for the first 5 years. Department Exhibit 1, pgs. 4-5.
2. On July 21, 2016, the Petitioner and his family applied for MA benefits where the Petitioner stated that they were not United States citizens or nationals, but that they did have eligible immigration status. Department Exhibit 1, pgs. 10-43.
3. Due to Department error, the Petitioner and his family were coded incorrectly as United States citizens and were given full MA benefits instead of MA Emergency

Services Only (ESO) for Permanent Residents who have been in the United States less than 5 years.

4. On January 10, 2017, the Department issued a notice to the Petitioner and his family indicating that they were only eligible for MA ESO coverage based on their immigration status of being Permanent Residents for less than 5 years. Department Exhibit 1, pgs. 6-9.
5. On February 16, 2017, the Petitioner requested a hearing, contesting the Department's negative action.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner requested a hearing disputing the approval of ESO MA and the closure of full MA coverage. 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. At time of application, Petitioner's family's member status was Permanent Resident.

In this case, the Petitioner and his family entered the United States on February 18, 2016 as Permanent Residents, which only allows them to be eligible for MA ESO only for the first 5 years. Department Exhibit 1, pgs. 4-5. On July 21, 2016, the Petitioner and his family applied for MA benefits where the Petitioner stated that they were not United States citizens or nationals, but that they did have eligible immigration status. Department Exhibit 1, pgs. 10-43. Due to Department error, the Petitioner and his family were coded incorrectly as United States citizens and were given full MA benefits instead of MA Emergency Services Only (ESO) for Permanent Residents who have been in the United States less than 5 years.

On January 10, 2017, the Department issued a notice to the Petitioner and his family indicating that they were only eligible for MA ESO coverage based on their immigration status of being Permanent Residents for less than 5 years. Department Exhibit 1, pgs.

6-9. On February 16, 2017, the Petitioner requested a hearing, contesting the Department's negative action. BAM 600 and 130. BEM 225.

The Administrative Law Judge finds that the Petitioner and his family are not eligible for full MA based on their immigration status. As Permanent Residents, they have to have lived in the United States for 5 years before being eligible for full MA. Since the Petitioner and his family entered the United States in February 18, 2016, they are only eligible for MA ESO.

DECISION AND ORDER

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 the Petitioner and his family were only eligible for MA ESO because they have been in the United States for less than 5 years.

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



CF/nr

Carmen G. Fahie for Michael Bennane
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]