



RICK SNYDER
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 6, 2017
MAHS Docket No.: 17-005682
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; 42 CFR 438.400 to 438.424; 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 May 30, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED]les, hearing facilitator. [REDACTED] participated as a [REDACTED] translator.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's spouse's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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. Petitioner and his spouse were ongoing MA and FAP recipients.
2. Petitioner was a member of a household that included his spouse.
3. Petitioner's spouse is a permanent resident of the United States with a U.S. entry date of [REDACTED].

4. Petitioner's spouse does not meet any special circumstances qualifying her for unrestricted MA or FAP eligibility.
5. On [REDACTED] MDHHS determined Petitioner was eligible for \$ [REDACTED] in FAP benefits, in part, based on exclusion of Petitioner's spouse as a group member.
6. On [REDACTED], MDHHS determined Petitioner's spouse was eligible for emergency-services only (ESO) Medicaid, beginning May 2017.
7. On [REDACTED], Petitioner requested a hearing to dispute his spouse's FAP and MA eligibility.

CONCLUSIONS OF LAW

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).

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

Petitioner requested a hearing, in part, to dispute a determination of MA benefits. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The determination informed Petitioner that his spouse was approved for Medicaid restricted to ESO beginning May 2017. The stated reason for the restriction was that Petitioner's spouse did not meet citizenship/immigration requirements for unrestricted Medicaid.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. BEM 225 (October 2016), 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 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, 11-12, 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 Respondent's spouse's permanent resident card (Exhibit 1, p. 5). Petitioner's spouse's listed United States entry date was [REDACTED] 5. Thus, Petitioner's spouse has not been in the United States for longer than 5 years and would require a special circumstance to qualify for unrestricted Medicaid.

It was not disputed that Petitioner's spouse's birth country was [REDACTED] [REDACTED] is not among the countries that hint of qualification for unrestricted Medicaid despite limited United States residency.

It was not disputed that Petitioner's spouse was granted United States entry because of her marriage to Petitioner. Marriage to a citizen/eligible immigrant is not a circumstance that justified issuance of unrestricted Medicaid.

Consideration of HMP eligibility was also considered based on citizenship/alien requirements listed in MAGIM (see MAGIM (May 28, 2014), pp. 5-12). MAGIM lists functionally identical requirements as MDHHS policy and also justifies issuance of restricted MA benefits.

It is found that MDHHS properly restricted Petitioner's spouse's MA eligibility to ESO. The analysis will proceed to consider a similar issue concerning Petitioner's FAP eligibility.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of FAP eligibility beginning May 2017. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 3-4) dated [REDACTED]. The notice informed Petitioner of FAP eligibility of \$ [REDACTED] beginning May 2017, in part, based on a group size of 1 person. The notice went on to state that a group member was disqualified due to not meeting citizenship/immigration requirements. It was not disputed that MDHHS did not factor Petitioner's spouse as a member of Petitioner's FAP group. Petitioner testimony restricted his FAP eligibility dispute to whether his wife was properly excluded.

[For FAP benefit eligibility,] a person must be a U.S. citizen or have an acceptable alien status... BEM 225 (October 2016), p. 1. Any of the following persons are considered to have an acceptable alien status (see *Id.* pp. 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
- permanent resident alien with I-151
- 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 allows persons with an I-551 to qualify for FAP, regardless of the basis for United States entry, under certain circumstances. Persons with a class code other than RE, AM or AS [on an I-551] who entered the United States after August 22, 1996 may be eligible for FAP benefits if any of the following circumstance are applicable (*Id.*, p. 32.):

- U.S. entry before August 22, 1996
- has 40 countable Social Security credits
- age 65 or older as of August 22, 1996, and was residing in United States on August 22, 1996
- Hmong or Laotian (with other requirements)
- received SSI on August 22, 1996
- currently blind or currently disabled
- under 18 years of age

The same considerations denying Petitioner's spouse's unrestricted Medicaid eligibility are applicable to Petitioner's spouse's FAP eligibility. There was no evidence presented suggesting Petitioner's spouse qualifies for FAP eligibility under a basis that was not considered in the MA analysis.

It is found Petitioner's spouse does not qualify for FAP eligibility. Thus, MDHHS properly excluded Petitioner's spouse in determining Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's and his spouse's FAP and MA eligibility, effective May 2017. 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]