



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 22, 2017
MAHS Docket No.: [REDACTED] 17-007496
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, a telephone hearing was held on [REDACTED], from Detroit, Michigan. Petitioner appeared and was represented by an authorized hearing representative (AHR), [REDACTED], who also testified on behalf of Petitioner and participated as an [REDACTED] translator. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner to be eligible for Medical Assistance (MA) restricted 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. Petitioner received ongoing Medicaid coverage with no restrictions.
2. Petitioner was a permanent resident of the United States with less than 5 years of residency.
3. Petitioner entered the United States from [REDACTED].
4. Petitioner's United States entry was based on being a parent of a United States citizen.

5. On [REDACTED], MDHHS determined Petitioner to be eligible for ESO-Medicaid coverage, effective July 2017.
6. On [REDACTED], Petitioner requested a hearing to dispute the restriction of ESO coverage.

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).

Petitioner requested a hearing to dispute MDHHS imposing a restriction to ongoing Medicaid coverage. MDHHS presented the first page of a Health Care Coverage Determination Notice (Exhibit 1, p. 1) dated [REDACTED]. The notice informed Petitioner he was eligible to receive ESO-restricted Medicaid. The presented page did not include a reason for a change. MDHHS testimony credibly indicated the change in Petitioner's MA was due to Petitioner's alien status.

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

It was not disputed that Petitioner entered the United States on [REDACTED]. Thus, Petitioner is not eligible for unrestricted MA for being in the United States for 5 years or longer.

It was not disputed that Petitioner entered the United States from [REDACTED]. Petitioner's native country is not one that justifies unrestricted MA coverage.

It was not disputed that Petitioner's class code was IR0; this is understood to be entry based on being a parent of a United States citizen. Petitioner's reason for United States entry does not justify issuing unrestricted MA coverage.

Petitioner testified he is 70 years-old and in need of ongoing medical care. Neither age nor need are factors in whether a client is eligible to receive unrestricted medical coverage.

It was curious that Petitioner received unrestricted Medicaid in the past. MDHHS testimony credibly indicated that Petitioner's previous MA eligibility was erroneously determined. It is found that MDHHS properly determined Petitioner to be eligible for ESO-restricted Medicaid coverage.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for ESO-restricted MA coverage, effective [REDACTED]. 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]

Counsel for Petitioner

[REDACTED]