



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR

JOSEPH NWOKOCHA
18421 ROSELAWN ST
DETROIT, MI 48221

Date Mailed: September 26, 2017
MAHS Docket No.: 17-009831
Agency No.: 123472483
Petitioner: Joseph Nwokocho

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 September 20, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and was represented by his daughter/Authorized Hearing Representative (AHR) Blessing Ukomadu, who also served as Igbo interpreter. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Johnnie Dankwa-Smith, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits and determine that he was eligible for Emergency Services Only (ESO) coverage?

FINDINGS OF FACT

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

1. In November 2016 Petitioner entered the U.S. as a visitor from Nigeria. On an unverified date, Petitioner underwent emergency surgery.
2. On or around December 1, 2016 Petitioner submitted an application for MA benefits.
3. Petitioner was approved for MA benefits under the full coverage Ad-Care category for December 1, 2016, ongoing. (Exhibit A)

4. On March 15, 2017 Petitioner became a legal permanent resident in the U.S. (Exhibit B)
5. On April 27, 2017 the Department's Central Office completed an override and transferred Petitioner's MA coverage to ESO based on his alien status.
6. Effective June 1, 2017 Petitioner was approved for ESO MA coverage.
7. The Department did not send Petitioner a Health Care Coverage Determination Notice or other eligibility notice advising him of the change in his MA coverage.
8. On July 18, 2017 Petitioner requested a hearing disputing the Department's actions with respect to his MA benefits.

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.

In this case, Petitioner disputed the Department's change of his MA coverage from the full coverage Ad-Care category to an ESO category effective June 1, 2017. The Department testified that after receiving verification of Petitioner's permanent residency card reflecting a permanent resident date of March 15, 2017, its Central Office transferred Petitioner's MA coverage to an ESO category. The Department stated that Petitioner was initially approved for full coverage MA under the Ad-Care category in error, as he has never been eligible for MA under that program based on his status as a non-citizen residing in the U.S. less than five years.

To be eligible for full coverage MA such as Ad-Care, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2016), pp. 1-2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran

honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

At the hearing, Petitioner's AHR testified that Petitioner is not a U.S. citizen and that he became a legal permanent resident from Nigeria on March 15, 2017. Petitioner's legal permanent residency card was presented for review and indicates that it does not show a class code of RE, AM or AS. There was also no evidence presented that Petitioner was a qualified military alien or the spouse of a qualified military alien. Therefore, because Petitioner has not been permanent resident alien for five or more years, does not have an eligible class code, and is not a qualified military alien or spouse of a qualified military alien, he is not eligible for full-coverage MA. Although the Department conceded that it did not properly notify Petitioner of the change in his MA eligibility, the Department's error is determined to be harmless, as sufficient notice would not change Petitioner's eligibility circumstances, as based on the evidence presented, Petitioner is eligible only for ESO MA coverage.

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 processed Petitioner's MA benefits.

DECISION AND ORDER

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

ZB/tlf



Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-31-Hearings
BSC4 Hearing Decisions
EQAD
M. Best
MAHS

**Authorized Hearing Rep.
-Via First-Class Mail:**

Blessing Ukomadu
18421 Roselawn St
Detroit, MI 48221

**Petitioner
-Via First-Class Mail:**

Joseph Nwokocha
18421 Roselawn St
Detroit, MI 48221