



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 13, 2018
MAHS Docket No.: 18-003991
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 June 11, 2018, from Detroit, Michigan. Petitioner was present with her husband, ██████████. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's child's Medical Assistance (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. On ██████████ 2018, Petitioner submitted an MA application on behalf of her child (Exhibit C).
2. On March ██████ 2018, the Department sent a Verification Checklist (VCL) requesting verification of Petitioner's child's Social Security card (Exhibit B).
3. On March ██████ 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that her child only qualified for Emergency Services Only (ESO) MA benefits (Exhibit A).
4. On ██████████ 2018, Petitioner submitted a request for hearing disputing the Department's actions.

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 submitted an MA application for her child on ██████████ 2018. Petitioner's child was 2 years old at the time and was not born in the United States. On March ██████ 2018, the Department sent Petitioner a notice informing her that her child was only eligible for ESO MA benefits.

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 (July 2017), p. 2. However, citizenship/alien status is not an eligibility factor for ESO MA. BEM 225, p. 2. MA coverage is limited to ESO for any: (i) persons with certain alien statuses or U.S. entry dates; (ii) persons refusing to provide citizenship/alien status information on the application; and (iii) person unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. The following individuals meet the qualified alien status to receive full coverage MA benefits: (i) qualified military aliens; (ii) qualified spouses and unmarried dependent children of military aliens; (iii) holder of one of the following immigration statuses: permanent resident alien with class code RE, AS, SI or SQ on the I-551 (former refugee or asylee); refugee admitted under INA Section 207; granted asylum under INA Section 208; Cuban/Haitian entrants; Amerasians under P.L. 100-202; and victims of trafficking under P.L. 106-386 of 2000. BEM 225, pp. 6-7. Individuals with the following immigration status are limited to ESO services for the first five years in the U.S.: (i) an alien who has been battered or subjected to extreme cruelty in the United States or whose child or parent has been battered or subjected to extreme cruelty in the United States; (ii) an alien whose deportation (removal) is being withheld under INA Sections 241(b)(3) or 243(h); and (iii) permanent resident aliens with a class code on the I-551 other than RE, AM or AS. BEM 225, p. 8. The following individuals are only eligible for ESO MA: (i) aliens paroled into the U.S. for less than one year under INA Section 212(d)(5); (ii) non-immigrant--an alien temporarily in the U.S. for a specific purpose (for example, student, tourist); and (iii) persons who do not meet any of the MA citizenship/alien statuses above. This includes, for example, undocumented

aliens and non-immigrants who have stayed beyond the period authorized by USCIS. BEM 225, p. 10.

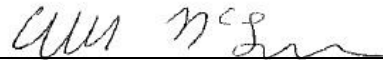
The Department testified that Petitioner's child only qualified for ESO MA because he is not a U.S. citizen, he had not been in the U.S. for five years, and he did not have one the specific immigration statuses that would allow for full-coverage MA without residing in the U.S. for five years.

Petitioner's husband testified his child was not born in the U.S. and was not a U.S. citizen. Petitioner's child was only 2 years old at the time of application, and therefore, has not been in the U.S. for five years. Petitioner's husband stated his child has a permanent resident card but did not allege that he had refugee, asylee or any other status that would allow for full-coverage MA benefits prior to the five-year residency requirement. Therefore, the Department properly followed policy when it determined Petitioner's child was only eligible for ESO MA.

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 Petitioner's child's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore

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) 763-0155; 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-17-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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