



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 9, 2019
MAHS Docket No.: 18-011020
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 December 13, 2018, from Detroit, Michigan. The Petitioner appeared for the hearing with her Authorized Hearing Representative, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits and determine that she 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. Petitioner is a legal permanent resident who entered the U.S. on or around [REDACTED], 2014, from Ecuador. (Exhibit A, p. 7)
2. On an unverified date, Petitioner applied for and was approved for full coverage MA benefits under the Healthy Michigan Plan (HMP) category.
3. In September 2018, the Department discovered that Petitioner had been receiving HMP in error.
4. On September 27, 2018 the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective November 1, 2018, she was eligible for Emergency Services Only (ESO) MA coverage. (Exhibit A, pp. 3-6)

5. On October 24, 2018 Petitioner requested a hearing disputing the Department's actions, specifically the finding that she is eligible for ESO MA coverage. (Exhibit A, p. 1-2)

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 her MA coverage from the full coverage HMP category to an ESO category effective November 1, 2018. The Department testified that Petitioner was initially approved for full coverage MA under the HMP category in error, as she has never been eligible for MA under that program based on her status as a non-citizen residing in the U.S. less than five years.

To be eligible for full coverage MA, 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), pp. 1-4. 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 she became a legal permanent resident from Ecuador in June 2014. Petitioner's legal permanent residency card was presented for review and 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 a 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, she is not eligible for full-coverage MA.

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 and determined that she was eligible only for ESO MA coverage.

DECISION AND ORDER

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

ZB/tlf



Zainab A. Baydoun
Administrative Law Judge
for Farah Hanley, Acting 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep. – Via USPS:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner – Via USPS:

[REDACTED]
[REDACTED]
[REDACTED]