



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: March 5, 2019
MAHS Docket No.: 18-013807
Agency No.: 123680672
Petitioner: [REDACTED]

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 March 4, 2019, from Detroit, Michigan. Petitioner was present with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Carrie Hutchinson, Lead Worker, and Holly Borkowski, Eligibility Specialist. Also present was Bengali Interpreter, [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit 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 was an ongoing MA recipient.
2. On October 25, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that she only qualified for Emergency Services Only (ESO) MA benefits (Exhibit A).
3. On December 26, 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 was an ongoing ESO MA recipient. On October 25, 2018, the Department sent Petitioner a HCCDN informing her that she was still only eligible for ESO MA.

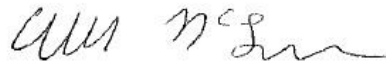
To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (July 2017), p. 2. However, citizenship/alien status is not an eligibility factor for ESO MA. BEM 225, p. 2. MA coverage is limited to ESO for any: (i) persons 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 only qualified for ESO MA. The Department presented a copy of Petitioner's Green Card (Exhibit B). According to the document, Petitioner's immigration class code was CR1. Additionally, Petitioner's U.S. entry date was [REDACTED] 2016.

Petitioner argued that she should be entitled to full-coverage MA benefits, as she was pregnant at the time. Pregnancy is not listed as an exception to the residency requirements under BEM 225. Petitioner was not a U.S. citizen, had not been in the U.S. for five years, nor was she designated as one of the specific immigration statuses that would allow for full-coverage MA without residing in the U.S. for five years. As such, the Department properly followed policy when it determined Petitioner 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 MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.



EM/jaf

Ellen McLemore

Administrative Law Judge

for Robert Gordon, 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

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]

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