



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 14, 2019
MAHS Docket No.: 19-000765
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 13, 2019, from Detroit, Michigan. Petitioner appeared and was represented by her daughter, [REDACTED], who also served as an interpreter. The Department of Health and Human Services (Department) was represented by Amanda Mullen, Hearings Facilitator. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medicaid (MA) benefits, effective January 1, 2019?

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 citizen of South Korea and the mother of a United States citizen. In April 2016, Petitioner came to the United States. On [REDACTED] 2016, Petitioner was granted permanent resident status by the United States under United States Citizenship and Immigration Services (USCIS) Category IR0, which is the category applicable to a parent of an adult United States citizen. Exhibit A, p. 10.
2. At some point, Petitioner applied and was approved for full-coverage MA benefits.

3. On December 13, 2018, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that effective January 1, 2019, Petitioner was no longer eligible for full-coverage MA benefits due to her immigration status. Petitioner was instead approved for Emergency Services Only (ESO) MA, effective January 1, 2019.
4. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action with respect to her MA benefits case.

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.

Petitioner in this case is a South Korean citizen who immigrated to the United States and, on [REDACTED] 2016, was granted permanent resident status under the USCIS category for parents of a United States citizen. At some point thereafter, Petitioner applied for MA benefits from the Department. For a period of time, Petitioner was receiving full-coverage MA benefits. However, in processing Petitioner's 2018 redetermination, it was discovered the Petitioner was admitted as a permanent resident under a category that the Department believed precluded Petitioner from full-coverage MA for a period of five years after entry. Thus, the Department issued to Petitioner a December 13, 2018 Health Care Coverage Determination Notice informing Petitioner that effective January 1, 2019, she would no longer have full-coverage MA but would still have ESO coverage. Petitioner submitted a hearing request and would like to have the full-coverage MA restored.

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. 32-35. If the person has permanent resident status, the person is eligible for full-coverage MA if the person is categorized as RE, AM, AS, SI, or SQ. BEM 225, p. 33. If the permanent resident has any other categorization, the person is barred from receiving full-coverage MA for five years after entry. BEM 225, pp. 32-35. Under those circumstances, the person is eligible for ESO based MA coverage. BEM 225, pp. 32-35.

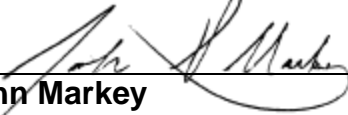
Petitioner was granted permanent resident status on [REDACTED] 2016 with a categorization of IR0, which is the categorization for a parent of a United States citizen. As that category is not one of the limited categories of permanent residents exempt from the five-year bar from receiving full-coverage MA, Petitioner is not eligible for full-coverage MA until five years after [REDACTED] 2016. That five-year bar has yet to expire. Therefore, Petitioner's eligibility for MA benefits from the Department is limited to ESO 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 determined that Petitioner was eligible for MA benefits limited to ESO, effective January 1, 2019.

DECISION AND ORDER

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

JM/cg



John Markey
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

Via Email:

MDHHS-Calhoun-Hearings
D. Smith
EQAD
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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