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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 30, 2019
MOAHR Docket No.: 19-006380
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 24, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brenda Drewnicki, hearing facilitator. ██████████ Petitioner's brother-in-law, participated as an ██████████ English translator.

ISSUE

The issue is whether MDHHS properly determined Petitioner'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 ██████████ 2017, Petitioner entered the United States as a resident alien from ██████████ under a category code of F21.
2. Since 2017, Petitioner was an ongoing recipient of Medicaid restricted to emergency-services only (ESO).
3. On May 16, 2019, Petitioner reported to MDHHS that she was pregnant.

4. On May 31, 2019, MDHHS approved Petitioner for health coverage under Maternity Outpatient Medical Services (MOMS) while continuing Medicaid eligibility limited to ESO.
5. On June 10, 2019, Petitioner requested a hearing to dispute the continuing ESO restriction on MA coverage.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute an ongoing ESO restriction to her Medicaid coverage. Petitioner contended that her reported pregnancy to MDHHS on May 16, 2019, should have resulted in unrestricted Medicaid coverage. MDHHS responded that Petitioner's alien status precluded any medical coverage beyond ES-restricted Medicaid.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) Medicaid. BEM 225 (July 2017), p. 2. To be eligible for full (i.e. unrestricted) Medicaid coverage, a person must be a United States citizen or an alien admitted to the U.S. under a specific immigration status. *Id.* Any of the following persons are considered to have an acceptable alien status (*Id.* pp. pp. 3-4, 5-9, 11-12, 31-33):

- United States citizens (includes those born in Puerto Rico)
- born in Canada and at least 50% American Indian
- member of American Indian tribe
- qualified military alien, spouse or child of qualified military alien,
- refugee under Section 207
- asylee under Section 208
- Cuban/Haitian entrant
- Amerasian
- victim of trafficking
- permanent resident alien with class code of RE, AS, SI or SQ
- deportation withheld (under certain conditions)
- granted conditional entry under 203(a)(7)
- paroled under 212(d)(5) for at least one year (under certain conditions)
- battered aliens, if more than five (5) years in the United States
- permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than five (5) years

MDHHS presented Petitioner's Permanent Resident Card (aka green card). Exhibit A, pp. 4-5. Petitioner did not dispute the accuracy of the information listed on the card.

Petitioner's green card listed [REDACTED] as her birth country. Petitioner's home country is not one qualifying her for an alien status justifying issuance of unrestricted Medicaid.

Petitioner's green card listed a category code of F21. Petitioner's category code is associated with entering the U.S. based on marriage to a permanent resident.¹ Petitioner's basis for U.S. entry is not one justifying issuance of unrestricted Medicaid.

Petitioner's date of entry in the United States was [REDACTED] 2017. As of the date of Petitioner's pregnancy reporting, she had been in the U.S. for less than five years. Petitioner's residency in the United States for less than five years justifies limiting any Medicaid coverage to ESO.

During the hearing, Petitioner repeatedly expressed dissatisfaction over receipt of ESO-restricted Medicaid coverage. Though Petitioner does not qualify for unrestricted Medicaid, MDHHS approved her for coverage under MOMS.

MOMS provides prenatal and postpartum outpatient pregnancy-related services to women who are pregnant or recently pregnant and are eligible for Medicaid Emergency Services Only (ESO). BEM 657 (July 2016), p. 1. Pregnant or recently pregnant Medicaid ESO beneficiaries receive prenatal care along with medically necessary ambulatory postpartum care for 60 days after the pregnancy ends regardless of the reason. *Id.* Coverage for pregnant Medicaid ESO beneficiaries is limited to the following outpatient pregnancy and postpartum-related services:

- Prenatal care and pregnancy-related care.
- Pharmaceuticals and prescription vitamins.
- Radiology and ultrasound.
- Professional fee for labor and delivery (including live birth, miscarriage, ectopic pregnancy and stillborn). Note: Outpatient deliveries are not covered.
- Outpatient hospital care.²
- Postpartum care through two calendar months after the pregnancy ends.
- Other pregnancy-related services approved by MSA.

Id., pp. 2-3.

Petitioner's testimony complained that she only received notice of MOMS coverage after requesting a hearing. Petitioner's testimony implied that MDHHS only issued MOMS coverage because Petitioner requested a hearing. MDHHS testimony credibly indicated that Petitioner was sent notice of coverage under MOMS on May 31, 2019, which is several days before MDHHS received Petitioner's hearing request. Thus,

¹ <https://www.justice.gov/sites/default/files/eoir/legacy/2008/03/26/fr20mr08.pdf>

² Labor and delivery and associated inpatient hospital costs are covered by Medicaid.

Petitioner's implied complaint that she had to request a hearing in order to receive health coverage is unsupported by the evidence.

Given the evidence, MDHHS properly determined Petitioner to be eligible for Medicaid restricted to ESO. Additionally, MDHHS properly approved Petitioner for health coverage under MOMS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for ESO-Medicaid and health coverage under MOMS effective May 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via First Class Mail
Petitioner

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

Via Electronic Mail
DHHS

Vivian Worden
MDHHS-Macomb-36-Hearings

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