



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 28, 2019  
MOAHR Docket No.: 19-006624  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 August 26, 2019, from Detroit, Michigan. The Petitioner was self-represented, and had his son, [REDACTED], appear as a witness and translator. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings facilitator, and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) Program 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 entered the country on May 1, 2019 and was granted Lawful Permanent Resident status under the IR5 immigration category.
2. On July 22, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing him he was eligible for full coverage MA benefits for August 2019.
3. On August 6, 2019, the Department realized that there had been an error in processing Petitioner's MA coverage and corrected it so that he was only eligible for Emergency Services Only (ESO) coverage effective September 1, 2019 but no notice was issued to Petitioner informing him of the change or why.

4. Petitioner became aware of problems related to his MA coverage after visiting the hospital and being denied assistance due to lack of MA coverage.
5. On June 19, 2019, the Department received Petitioner's request for hearing disputing the Department's decision to deny him full MA coverage.

### **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 disputes the Department's decision to provide Emergency Services Only (ESO) MA coverage versus full coverage MA. In all programs, the Department is required to determine alien status of each non-citizen requesting benefits at application, redetermination, member addition, and when a change is reported. BEM 225 (July 2017), p. 1. In MA cases, citizenship and alien status are not eligibility factors for ESO MA coverage. *Id.* However, the person seeking MA coverage must meet all other eligibility factors including residency. *Id.* To be eligible for full MA coverage, a person must be a U.S. citizen or an alien admitted to the US under a specific immigration status. *Id.* Individuals with certain types of alien status or U.S. entry dates are limited to ESO MA coverage. *Id.*

Individuals with one of the following status may be eligible for full coverage MA benefits:

- U.S. citizen
- Persons born in Canada who are at least 50% American Indian
- Member of a federally acknowledged American Indian Tribe
- Qualified military alien
- A qualified alien spouse and unmarried qualified alien dependent children of a qualified military alien
- Holder of one of the following immigration statuses:
  - Permanent resident alien with a class code RE, AM, AS, SI, or SQ on the I-551 (former refugee or asylee)

- Refugee admitted under Immigration and Nationality Act (INA) Section 207
- Granted asylum under INA Section 208
- Cuban/Haitian entrant
- Amerasian under P.L. 100-202 (class code AM on the I-551)
- Victim of trafficking under P.L 106-386 of 2000
- Alien whose deportation (removal) is being withheld under INA Sections 241(b)(3) or 243(h)—limited to ESO coverage for the first five years in the U.S.
- Alien paroled into the U.S. for at least one year under INA Section 212(d)(5) —limited to ESO coverage for the first five years in the U.S.
- Alien granted conditional entry under INA Section 203(a)(7)
- An alien who has been battered or subjected to extreme cruelty in the U.S. or whose child or parent has been battered or subjected to extreme cruelty in the U.S.—limited to ESO services for the first five years in the U.S.
- Alien paroled into the U.S. for less than one year under INA Section 212(d)(5)—ESO services only
- Non-immigrant—an alien temporarily in the U.S. for a specific purpose (for example student and tourist status) that has not exceeded the time period authorized by United States Citizenship and Immigration Services (USCIS)—ESO coverage only

BEM 225, pp. 6-10. Any person who does not meet any of the MA citizenship/alien statuses listed above are limited to ESO MA coverage. BEM 225, p. 10.

Petitioner is a Lawful Permanent Resident under the IR5 category. Petitioner was not admitted to the U.S. under any of the categories for which full coverage MA are provided. Therefore, the Department correctly provided Petitioner ESO MA 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 Petitioner's eligibility for ESO MA coverage.

### **DECISION AND ORDER**

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



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**Amanda M. T. Marler**

Administrative Law Judge

for Robert Gordon, Director

Department of Health and Human Services

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**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

**DHHS**

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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**CC:**

[REDACTED]  
[REDACTED]