



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████  
██████████  
██████████, MI ██████████

Date Mailed: March 19, 2021  
MOAHR Docket No.: 21-000195  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 25, 2021. Petitioner was represented by ██████████ ██████████. The Department was represented by Amber Gibson.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA)?

### **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 October 15, 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) limited to Emergency Services Only (ESO). Exhibit A, pp 7-10.
2. Petitioner has held a permanent resident immigration status under the category IR0 since October 13, 2017. Exhibit A, p 5.
3. On January 4, 2021, the Department received Petitioner's hearing request protesting the level of Medical Assistance (MA) benefits he is receiving. Exhibit A, pp 3-4.

### **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 through 42 USC 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 through 42 CFR 420.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.103 through MCL 400.112k of the Social Welfare Act, MCL 400.1 *et seq.*

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 105 (January 1, 2020), p 2.

Eligibility for MA benefits is available for individuals with an acceptable immigration status, which includes permanent resident aliens with a class code on the I-551 other than RE, AM, or AS, except that an individual is limited to emergency services only (ESO) for the first five years in the United States. Department of Health and Human Services Bridges Eligibility Manual (BEM) 225 (October 1, 2019), pp 7-8.

Petitioner is an ongoing MA recipient, and his benefits are limited to Emergency Services Only (ESO). Petitioner does not dispute that he has held an immigration status of permanent resident with a category IRO since October 13, 2017. Therefore, Petitioner is limited to Emergency Services Only (ESO) until he has been in the United States with an acceptable immigration status for 5 years.

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 the most beneficial category of Medical Assistance (MA) that Petitioner is eligible for.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
for Elizabeth Hertel, 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

**DHHS**

Amber Gibson  
5303 South Cedar  
PO Box 30088  
Lansing, MI  
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

C. George- via electronic mail

EQAD- via electronic mail

**Petitioner**

██████████ - via first class mail

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██████████, MI

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