



GRETCHEN WHITMER  
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 18, 2022  
MOAHR Docket No.: 22-002612  
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 hearing was held via telephone conference line on July 14, 2021. Petitioner participated and was represented. ██████████, Petitioner's daughter, participated as Petitioner's authorized hearing representative (AHR) and as an Urdu-English translator.<sup>1</sup> The Michigan Department of Health and Human Services (MDHHS) was represented by Melisa Medar, specialist.

**ISSUE**

The issue is whether MDHHS properly reduced Petitioner's Medical Assistance (MA) eligibility to MA-Emergency Services Only (ESO)

**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 March 19, 2020, Petitioner entered the United States from India under a category code of IR0.
2. On an unspecified date, MDHHS approved Petitioner for unrestricted MA benefits by determining that Petitioner entered the United States under a category code of RE, AM, or AS.
3. On June 7, 2022, MDHHS reduced Petitioner's unrestricted MA benefits to MA-ESO beginning July 2022.

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<sup>1</sup> During the hearing, Petitioner verbally consented to her daughter's representation.

4. On June 21, 2022, Petitioner requested a hearing to dispute the restriction of MA benefits.

### **CONCLUSIONS OF LAW**

The 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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a reduction in MA benefits. Exhibit A, pp. 4-5. A Health Care Coverage Determination Notice dated June 7, 2022, stated that Petitioner's MA eligibility would be limited to MA-ESO beginning July 2022 due to Petitioner not meeting the citizenship/qualified alien requirements for unrestricted MA benefits. Exhibit A, pp. 58-61.

To be eligible for full MA benefits (i.e., unrestricted MA), a person must be a United States citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2022) p. 2. Citizenship/alien status is not an eligibility factor for MA-ESO. *Id.* Any of the following persons are considered to have an acceptable citizenship or alien status to receive unrestricted MA benefits (*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 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 years

Petitioner permanent resident card listed her date of United States entry as March 19, 2020. As Petitioner's entry date is within the last five years, she is ineligible for unrestricted MA unless she meets one of the above exceptions.

Petitioner's permanent resident card listed her home country as India. Exhibit A, pp. 7-8. India is not among the countries suggesting potential unrestricted MA eligibility within five years of United States entry.

Petitioner's permanent resident card listed a category code of IR0. The code verified entry into the United States for being the parent of a United States citizen.<sup>2</sup> Being a parent of a United States citizen does not qualify Petitioner for unrestricted Medicaid.

Petitioner's AHR cited the ailments and elderly age of her mother in the importance of her keeping unrestricted MA benefits. Unfortunately, age and/or need are not bases for issuing unrestricted MA benefits without a proper immigration status.

Since the COVID-19 pandemic, reductions in MA eligibility are atypical. In a revised Economic Stability Administration memorandum, MDHHS indefinitely suspended terminations and reductions to MA eligibility. ESA 2020-12 (March 20, 2020). In an email to Petitioner's specialist dated June 28, 2022, MDHHS clarified that closures/reductions are only prohibited for "valid" enrollments. Exhibit A, p. 10. "Valid" is defined as when a client's MA eligibility was properly determined as of September 2021. Exhibit A, pp. 11-17. MDHHS credibly testified that Petitioner only received unrestricted MA benefits because it processed Petitioner's eligibility using an incorrect entry code. MDHHS further testified that the erroneous code was corrected after Petitioner recently applied for cash benefits. Thus, MDHHS contended, Petitioner's MA eligibility was not valid as of September 2021.

Petitioner's AHR recalled (though she admitted uncertainty) that Petitioner's MA eligibility properly began in March 2020 for three months. Petitioner's AHR believed that Petitioner's initial MA eligibility for three months was valid, and any error occurred later. MDHHS is not known to offer temporary or automatic MA approval of three months of MA benefits. Thus, it is doubtful that Petitioner's initial MA eligibility was valid. Furthermore, MDHHS considers the validity of a client's MA eligibility as of September 2021. Petitioner was not a valid recipient of MA as of September 2021 because she still had not met the citizenship/immigration requirements to receive unrestricted MA benefits.

The evidence established that Petitioner did not have a valid entry code bestowing unrestricted MA eligibility as of September 2021. The evidence also established that Petitioner was not otherwise eligible to receive unrestricted MA benefits. Thus, MDHHS properly reduced Petitioner's MA eligibility to MA-ESO beginning July 2022.

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<sup>2</sup> <https://www.justice.gov/sites/default/files/eoir/legacy/2008/03/26/fr20mr08.pdf>

**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 MA-ESO beginning July 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



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**Christian Gardocki**

Administrative Law Judge

**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-Electronic Mail :**

**DHHS**  
MDHHS-Oakland-DistrictII-Hearings  
EQAD Hearings  
C. George  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

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**Authorized Hearing Representative**

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