



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], MI [REDACTED]

Date Mailed: April 6, 2023
MOAHR Docket No.: 23-000534
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 8, 2023, from Detroit, Michigan. Petitioner appeared for the hearing with her sister, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Worker. Sahnaj Chowdhury served as Bengali interpreter.

As a preliminary matter, during the hearing, Exhibit 1 was admitted into the record on behalf of Petitioner. Petitioner was instructed to submit a copy of the front and back of her legal permanent resident card to the undersigned Administrative Law Judge following the closure of the hearing record. As of the issuance of this Hearing Decision, Exhibit 1 had not been submitted, and thus, will be stricken from the record.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits and determine that she was eligible for Emergency Services Only (ESO) coverage?

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 legal permanent resident who entered the U.S. on or around September 20, 2018, from Bangladesh. (Exhibit A, p. 17)
2. On or around [REDACTED] 15, 2022, and [REDACTED] 27, 2022, Petitioner applied for and was approved for full coverage MA benefits.

3. The Department discovered that Petitioner had been receiving full coverage MA in error. The Department determined that Petitioner was eligible for Emergency Services Only (ESO) MA.
4. On or around January 30, 2023, Petitioner requested a hearing disputing the Department's actions, specifically the finding that she is ineligible for full coverage MA. (Exhibit A, pp. 3-5)

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 requested a hearing disputing the Department's finding that she is eligible for ESO MA coverage. The Department testified that Petitioner was initially approved for full coverage MA in error, as she has never been eligible for MA under that program based on her status as a non-citizen residing in the U.S. less than five years.

To be eligible for full coverage MA, a person must be a U.S. citizen or a non-citizen admitted to the U.S. under a specific immigration status. BEM 225 (October 2022), pp. 1-4. An individual who is a lawful permanent resident with a class code on the permanent residency card (I-551) other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military non-citizen or the spouse or dependent child of a qualified military non-citizen or a noncitizen paroled into the U.S. For at least one year under INA Section 212(d)(5). BEM 225, pp. 7-8. A qualified military noncitizen is a qualified noncitizen on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, pp. 5-7. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

At the hearing, there was no dispute that Petitioner is not a U.S. citizen and that she became a legal permanent resident from Bangladesh in September 2018. Petitioner's

legal permanent residency card was reviewed during the hearing and does not show a class code of RE, AM or AS. There was also no evidence presented that Petitioner was a qualified military noncitizen or the spouse of a qualified military noncitizen. Therefore, because Petitioner has not been a permanent resident noncitizen for five or more years, does not have an eligible class code, is not a qualified military alien or spouse of a qualified military alien, and does not meet the eligibility criteria identified in BEM 225, she is not eligible for full-coverage MA.

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 processed Petitioner's MA benefits and determined that she was eligible only for ESO MA coverage.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

Petitioner

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