



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: September 27, 2023
MOAHR Docket No.: 23-004017
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 September 5, 2023, from Detroit, Michigan. Petitioner appeared for the hearing with her Case Worker/Recovery Coach [REDACTED]. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

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. On or around [REDACTED], 2022, Petitioner submitted an application requesting MA benefits. In connection with the application, Petitioner was instructed to submit verification of her immigration status.
2. On or around September 9, 2022, Petitioner submitted verification to the Department, showing that she is a legal permanent resident of the United States and that her date of entry from Mexico was March 4, 2020. (Exhibit A; Exhibit 1)

3. On or around September 22, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice, advising her that she was approved for full coverage MA benefits under the Healthy Michigan Plan (HMP) category.
4. In June 2023, and in connection with a mass update, the Department discovered that Petitioner had been receiving HMP in error.
5. On or around June 22, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective July 1, 2023, ongoing, she was approved for ESO MA benefits.
6. On or around July 6, 2023, Petitioner requested a hearing disputing the Department's actions.

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 (April 2023), 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 rolled 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 Mexico in March 2020. Petitioner's legal permanent residency card was presented for review 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.

Petitioner asserted that her father moved to the United States from Mexico under an L-1 visa in July 2013 as he obtained employment with the [REDACTED]. Petitioner testified that she entered the United States in 2014 under the L-2 visa program as a minor dependent of her father. Petitioner asserted that the verification checklist she received from the Department at the time of her September 2022 application indicates that an I-94 arrival – departure record is acceptable verification of her alien status. Petitioner testified that the documents she submitted to the Department in 2023 show that she has been living in the United States legally since 2014 and that she has work authorization. The documents presented by Petitioner do not establish that she became a legal permanent resident prior to March 2020.


Although Petitioner presented evidence that she was legally authorized to reside and work in the United States since 2014, 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 effective July 1, 2023.

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
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
MDHHS-Calhoun-Hearings@michigan.gov

Interested Parties
BSC3
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED] MI [REDACTED]