



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

Date Mailed: October 4, 2023  
MOAHR Docket No.: 23-004938  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

### **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 27, 2023, from Lansing, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by Ashely Smith. Department Exhibit 1, pp. 1-12 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner is eligible for Emergency Services Only Medicaid?

### **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 [REDACTED] 2023, Petitioner applied for MA.
2. On July 27, 2023, Petitioner's application was denied in error.
3. On August 14, 2023, Petitioner requested hearing disputing the denial of MA.
4. On August 24, 2023, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was eligible for Emergency Services Only Medicaid because of her immigration status.

5. Petitioner has a pending immigration application for Permanent Resident Status.

### **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.

#### **MA**

Citizenship/non-citizen status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency; see BEM 220.

To be eligible for full MA coverage a person must be a U.S. citizen or a non-citizen admitted to the U.S. under a specific immigration status.

U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid; see BAM 130.

A person claiming U.S. citizenship is not eligible for ESO coverage.

The status of each non-citizen must be verified to be eligible for full MA coverage; see CITIZENSHIP/NON-CITIZEN STATUS in this item.

A child born to a woman receiving Medicaid is considered a U.S. citizen. No further documentation of the child's citizenship is required.

**Exception:** RSDI and SSI recipients, Medicare recipients, newborns (BEM 145), safe delivery babies, and children receiving Title IV-B services or Title IV-E adoption assistance or foster care payments are not required to verify U.S. citizenship.

MA coverage is limited to emergency services for any:

- Persons with certain non-citizen statuses or U.S. entry dates as specified in policy; see CITIZENSHIP/NON-CITIZEN STATUS in this item.
- Persons refusing to provide citizenship/non-citizen status information on the application.
- Persons unable or refusing to provide satisfactory verification of non-citizen information.

**Note:** All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services; see BEM 220. BEM 225

### **FIP, SDA and MA**

Non-citizen admitted into the U.S. with one of the following immigration statuses:

Lawful Permanent Resident with a class code on the I-551 other than RE, AM or AS.

Non-citizen paroled into the U.S. for at least one year under INA Section 212(d)(5).

Exception (both statuses above): The eligibility of a noncitizen admitted into the U.S. on or after August 22, 1996, with one of these statuses is restricted as follows unless the noncitizen is a qualified military non-citizen or the spouse or dependent child of a qualified military non-citizen:

For FIP, an individual is disqualified for the first five years in the U.S.

For SDA, an individual is disqualified.

For MA an individual is limited to emergency services for the first five years in the U.S.

- Non-citizen granted conditional entry under INA section 203(a)(7).
- Lawful Permanent Resident with an I-151, Alien Registration Receipt Card. (not acceptable for MA verification) BEM 225


In this case, Petitioner has an immigration application pending for Permanent Resident Status. Petitioner was approved for Emergency Services Only Medicaid based on her immigration status, this was proper and correct and consistent with Department policy. BEM 225

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 approved Petitioner for Emergency Services Only Medicaid.

**DECISION AND ORDER**

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

AM/ml

  
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**Aaron McClintic**  
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**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-Hearings@michigan.gov**

**Interested Parties**

BSC4  
B Sanborn  
L Brewer-Walraven  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]