



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

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

Date Mailed: March 13, 2024  
MOAHR Docket No.: 24-001101  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 March 7, 2024. Petitioner did not participate and was unrepresented. [REDACTED] [REDACTED] Petitioner's daughter, testified on behalf of Petitioner and participated as his authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Jamila Goods, hearings facilitator.

### **ISSUES**

The issue is whether MDHHS properly determined Petitioner's and his spouse's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly denied Petitioner's and his spouse's Food Assistance Program (FAP) eligibility.

### **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 June 4, 2022, Petitioner and his spouse, [REDACTED] [REDACTED] (hereinafter, "Spouse") entered the United States from India; U.S. entry was based on being a parent of a United States citizen.
2. On [REDACTED] [REDACTED] 2023, Petitioner applied for FAP and MA benefits and reported a household including Spouse.

3. On January 2, 2024, MDHHS approved Petitioner and Spouse for Emergency Services Only (ESO)-MA benefits beginning September 2023.
4. On January 2, 2024, MDHHS denied FAP benefits to Petitioner and Spouse due to their citizenship status.
5. On February 2, 2024, Petitioner's AHR requested a hearing to dispute the determination of ESO-MA benefits and denial of FAP 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's AHR requested a hearing in part, to dispute MA eligibility for Petitioner and Spouse. Exhibit A, pp. 3-4. Petitioner and Spouse applied for MA benefits on [REDACTED] 2023. Exhibit A, pp. 15-30. A Health Care Coverage Determination Notice dated January 2, 2024, stated that Petitioner and Spouse were eligible to receive ESO-Medicaid beginning September 2023. Exhibit A, pp. 11-14. Petitioner's AHR specifically disputed the limitation of MA benefits to ESO.

To be eligible for full Medicaid coverage (i.e., unrestricted Medicaid), a person must be a United States citizen, or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2024) 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 (*Id.* 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 (5) 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 (5) years

MDHHS presented a copy of Spouse's Permanent Resident Card (PRC).<sup>1</sup> Exhibit A, pp. 33-34. MDHHS credibly testified, without rebuttal, that PRC the same country of origin, category code, and U.S. entry date as Spouse's card.

Petitioners and Spouse's PRC each listed India as the country of birth. India is not among the countries that would qualify Petitioner or Spouse for unrestricted Medicaid.

Petitioner and Spouse entered the United States on June 4, 2022. Because Petitioner's and Spouse's entry date is within the last five years, their time in the United States would not qualify them for unrestricted Medicaid.

Petitioner's and Spouse's PRC each listed a category code of IR5. A category code of IR5 allows U.S. entry for parents of citizens.<sup>2</sup> Being a parent of a United States citizen does not qualify Petitioner or Spouse for unrestricted Medicaid.

Petitioner's AHR testified that her father and mother have are elderly, poor, and in need of medical treatment. Though the testimony was sincere, a need for MA, a lack of income, and/or old age do not allow for unrestricted MA without a proper alien status.

Petitioner's AHR also testified that Petitioner had a green card for approximately 8 years before Petitioner had to return it in 2011 before returning to India. Petitioner's AHR also testified that Petitioner visited the United States throughout 2011-2021. The testimony was credible but has no bearing on MA benefit eligibility. Given the evidence, MDHHS properly determined Petitioner and Spouse to be eligible for MA benefits restricted to ESO.

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner's AHR also requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] 2023. Exhibit A, pp. 15-30. A Notice of Case Action dated January 2, 2024, stated that Petitioner and Spouse were denied FAP benefits due to lacking the required citizenship/alien status. Exhibit A, pp. 6-10.

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<sup>1</sup> PRCs are commonly known as "green cards".

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

For FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. BEM 225 (January 2024) p. 1. Any of the following persons are considered to have an acceptable alien status:

- 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, AM, AS, SI or SQ
  - permanent resident alien and has I-151
  - 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 5 years
- Id.* pp. 33-35.

Persons with a class code other than RE, AM or AS who entered the United States after August 22, 1996, may be eligible for FAP benefits for their first five (5) years in the United States if any of the following circumstance are applicable:

- U.S. entry before August 22, 1996
  - has 40 countable Social Security credits
  - age 65 or older as of August 22, 1996, and was residing in United States on August 22, 1996
  - Hmong or Laotian (with other requirements)
  - Currently blind or disabled <sup>3</sup>
  - under 18 years of age
- Id.*, pp. 33-35.

As discussed in the MA analysis, neither Petitioner nor Spouse met any of the country of birth, U.S. date of entry, or reason for U.S. entry to qualify for unrestricted MA benefits. There was no evidence that Petitioner's or Spouse's circumstances allowed either to meet the immigration status to qualify for FAP benefits. Given the evidence, MDHHS properly denied Petitioner's FAP application dated [REDACTED] 2023.

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<sup>3</sup> Disability requires receiving disability benefits or being a disabled veteran or a specified relative of a disabled veteran.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner and Spouse to be eligible for ESO-MA beginning September 2023. MDHHS additionally properly denied Petitioner's and Spouse's FAP application dated [REDACTED] 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



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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**  
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**Interested Parties**  
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B. Cabanaw  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED], MI [REDACTED]