



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: May 13, 2024
MOAHR Docket No.: 24-003390
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on May 2, 2024. Petitioner was represented by their Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Sabrina Anthony, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Medicaid (MA) case when Petitioner submitted an application on [REDACTED] 2024?

Did the Department properly determine Petitioner's MA eligibility for Emergency Services Only (ESO) coverage on March 28, 2023?

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 United States (US) on or around January 30, 2023. (Exhibit A, pp. 29, 37; Exhibit B, p. 2).
2. Petitioner immigrated from Bangladesh for purpose of joining family in the US.

3. Petitioner's I-551¹ class code² is FX3. (Exhibit A, p. 37).
4. On [REDACTED] [REDACTED] 2023³, the Department received an electronic application for MA from Petitioner. (Exhibit A, pp. 28 – 33).
5. On March 22, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (MA notice), approving Petitioner for Healthy Michigan Plan (HMP) coverage effective March 1, 2023 ongoing. (Exhibit A, pp. 34 – 36).
6. On March 28, 2023, the Department sent Petitioner a second MA notice, approving Petitioner for ESO coverage effective May 1, 2023 ongoing. (Exhibit A, pp. 39 – 42).
7. On [REDACTED] [REDACTED] 2024, the Department received an application for MA from Petitioner. (Exhibit B, pp. 1 – 6). The Department closed Petitioner's [REDACTED] [REDACTED] 2024 application and did not issue any notices to Petitioner.
8. On March 27, 2024, the Department received a request for hearing from Petitioner requesting 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.

Petitioner requested a hearing, regarding a request for full coverage MA. At the hearing, it was determined that Petitioner's most recent MA application was dated

¹ An I-551 is the permanent resident card issued, by the US Citizenship and Immigration Services (USCIS), to individuals granted lawful permanent residence status by USCIS.

² Class codes are used to describe the visa category used to admit an immigrant to the US as a permanent or temporary resident.

³ Petitioner's application was submitted on Tuesday, [REDACTED] [REDACTED] 2023 at 10:29 pm. For MA applications submitted to the Department electronically, the date of the application is the submission date regardless of the time received. BAM 110 (October 2022), p. 6.

██████████ 2024 and that, in response to his application, the Department closed Petitioner's ongoing MA case and did not notify Petitioner of any action taken.

An application or filing form, with the minimum information, must be registered in Bridges unless the client is already active for that program. BAM 110 (October 2023), p. 8. Policy does not provide for the Department to close a MA case with no notice based on receipt of a new application. See BAM 110, p. 8; see also BAM 115 (January 2024), BAM 210 (January 2024), p. 2. However, if an individual is due for a renewal, benefits stop at the end of the benefit period unless a renewal is completed, and a new benefit period is certified. BAM 210, p. 4.

In this case, the Department approved Petitioner for ESO coverage on March 28, 2023, effective May 1, 2023 ongoing. (Exhibit A, pp. 39 – 42). On ██████████ 2024, Petitioner submitted a new application to the Department for MA. (Exhibit B, pp. 1 – 6). The Department confirmed receipt of the new MA application and did not provide evidence or testimony that Petitioner was due for a renewal or that Petitioner's application was otherwise prompted by a request from the Department. The Department further testified that Petitioner's MA was closed as a result of the application and that it did not issue any notice to Petitioner that it closed his MA case. The Department did not offer any further explanation or testimony regarding a) why it closed Petitioner's MA case or b) why it did so without notice to Petitioner. Therefore, the Department did not meet its burden of showing that it acted in accordance with Department policy when it took either action.

Notwithstanding the foregoing, Petitioner's request for hearing and AHR advocated for full coverage MA for Petitioner, as opposed to the ESO coverage Petitioner had been approved for prior to the Department's closure of Petitioner's MA case.

To be eligible for full coverage MA, a person must be a US citizen or a non-citizen admitted to the US under a specific immigration status, subject to certain restrictions. BEM 225 (January 2024), pp. 2, 5, 7 – 8. A non-citizen who is

- a) a lawful permanent resident with an I-551 class code other than Refugee (RE), Amerasian (AM), or Asylee (AS), or
- b) or a noncitizen paroled into the US for at least one year under the Immigration and Nationality Act (INA), Section 212(d)(5),

and who was admitted to the US on or after August 22, 1996, is eligible for ESO coverage only for the first five years they are in the US, unless the individual is a qualified military non-citizen or the spouse or dependent child of a qualified military non-citizen. BEM 225, pp. 7 – 8. If an individual was granted conditional entry to the US based on their capability to perform qualified skilled labor, they may not be subject to the five year residency restriction for MA. BEM 225, p. 8; see also INA 203(a)(7), 8 USC 1153. Additional circumstances may exist for an exception to the five year residency restriction in the case of cruelty or battery. BEM 225, pp. 8 – 9. A non-citizen who does not meet one of the limited exceptions set forth in BEM 225, is limited

to MA ESO coverage only for the first five years they are in the US. BEM 225, pp. 32 – 33.

In this case, the Department approved Petitioner for ESO coverage on March 28, 2023. (Exhibit A, pp. 39 – 42). Both parties agreed that Petitioner is a non-citizen of the US and became legal permanent resident of the US on January 30, 2023, upon immigrating from Bangladesh. The Department testified that Petitioner's class code, as indicated on his I-551, is FX3. (Exhibit A, p. 37). FX3 is the class of children of FX1, FX2, FX7, or FX8 [class coded individuals], exempt from country limits⁴. Petitioner's AHR testified that the purpose of Petitioner's immigration to the US was to join family. Petitioner's AHR also testified that Petitioner does not work and does not have, and did not immigrate to perform, a skilled trade. No evidence was offered that Petitioner is a qualified military non-citizen or a spouse or dependent of a qualified military non-citizen. Therefore, because Petitioner has not been a permanent non-citizen resident for five or more years, does not have an eligible class code, is not a qualified military non-citizen or the spouse or dependent of a qualified military non-citizen, he is not eligible for full coverage MA. The only MA coverage available to Petitioner at this time is ESO and the Department acted in accordance with Department policy when it determined, on March 28, 2023, that Petitioner was eligible for ESO MA coverage only.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA case without notice following receipt of Petitioner's [REDACTED] 2024 MA application.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** as to the closure of Petitioner's MA case as a result of Petitioner's [REDACTED] 2024 MA application.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's ESO MA coverage pending the processing of Petitioner's [REDACTED] 2024 MA application;
2. Process Petitioner's [REDACTED] 2024 MA application;
3. Provide Petitioner the most beneficial MA coverage available to him, if any, that he is eligible to receive from the date of closure ongoing; and

⁴ Immigration Classes of Admission, US Department of Homeland Security; <https://www.dhs.gov/ohss/topics/immigration/lpr/classes-of-admission>. (Last accessed May 7, 2024.) FX generally denotes family-sponsored immigration.

4. Notify Petitioner of its decision in writing.



CML/nr

Caralyce M. Lassner
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-Macomb-20-
Hearings@michigan.gov**

Interested Parties
Macomb 20 County DHHS
BSC4
D. Smith
EQAD
MOAHR

Via-First Class Mail :

Petitioner


MI