



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], MI [REDACTED]

Date Mailed: July 8, 2024
MOAHR Docket No.: 24-005058
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 June 27, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tom Jones, supervisor.

ISSUE

The issue is whether MDHHS properly determined Petitioner's spouse's Medical Assistance (MA) 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. As of January 2024, Petitioner's spouse, [REDACTED] [REDACTED] was an ongoing recipient of unrestricted MA benefits.
2. As of January 2024, Petitioner reported to MDHHS that Spouse was a naturalized United States citizen.
3. As of March 2024, MDHHS did not possess verification of Spouse's citizenship.
4. As of March 2024, MDHHS had not requested Spouse's verification of citizenship via Verification Checklist (VCL).

5. On April 10, 2024, MDHHS approved Spouse for Emergency Services Only (ESO)-MA benefits beginning May 2024.
6. On April 30, 2024, Petitioner requested a hearing to dispute the restriction to Spouse's MA eligibility.

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 requested a hearing to dispute a restriction on Spouse's MA benefits. Exhibit A, pp. 3-4. A Health Care Coverage Determination Notice dated April 10, 2024, stated that Spouse was eligible to receive ESO-Medicaid beginning May 2024. Exhibit A, pp. 10-14. Petitioner specifically disputed Spouse's restriction 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 (April 2023) 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

It was not disputed that Spouse received from MDHHS unrestricted MA benefits through April 2024. MDHHS testified that Respondent recently reported that Spouse was a naturalized U.S. citizen. MDHHS is to not request verification from a person claiming U.S. citizenship unless the client's statements are questionable. BEM 225 (January 2024) p. 20. MDHHS deemed Spouse's reported citizenship to be questionable because previous reporting indicated that Spouse was not a citizen.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2023) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

For purposes of this decision, it will be accepted that MDHHS reasonably concluded that Spouse's citizenship was questionable. If Spouse's citizenship was questionable, MDHHS should have requested verification of Spouse's citizenship from Petitioner. MDHHS acknowledged that a VCL requesting verification of Spouse's citizenship was never sent to Petitioner.¹ Before restricting Spouse's eligibility, Petitioner was entitled to an opportunity to verify Spouse's citizenship after reporting to MDHHS that Spouse became a naturalized citizen. MDHHS improperly restricted Spouse's MA eligibility before attempting to verify citizenship.

MDHHS's failure to request Spouse's citizenship status before restricting Spouse to ESO-MA eligibility was improper. As a remedy, Petitioner is entitled to a reinstatement of Spouse's unrestricted MA eligibility.²

¹ MDHHS testimony suggested it verbally advised Petitioner of the need for verification however, MDHHS acknowledged that a verbal request for verification is not compliant with its policy.

² MDHHS is not precluded from taking negative action on Spouse's MA eligibility if Petitioner fails to verify Spouse's citizenship after a proper effort to verify citizenship.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Spouse's MA eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Spouse's MA eligibility beginning May 2024 subject to the finding that MDHHS failed to attempt to verify Spouse's naturalized citizenship following Petitioner's reporting that he is a naturalized citizen; and
- (2) Issue notice and benefit supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



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

Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]