



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], MI [REDACTED]

Date Mailed: August 13, 2024
MOAHR Docket No.: 24-005837
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 July 15, 2024. Petitioner Saeed Omar appeared and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Translation services were provided by Samar Afara, an independent English-Arabic translator engaged by the Department.

ISSUE

Did the Department properly determine Petitioner and his family's Medicaid (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. Petitioner and his family are legal permanent residents who entered the United States (US) on the following dates:
 - a. Petitioner on September 5, 2021,
 - b. Petitioner's and his wife's four children, [REDACTED] (MO), [REDACTED] (SA), [REDACTED] (TO), and [REDACTED] (AB) on October 6, 2022, and
 - c. Petitioner's wife, [REDACTED] [REDACTED] (Spouse), on September 8, 2023.

2. On December 27, 2023, the Department received a MA redetermination from Petitioner for himself and MO, SA, TO, and AB. (Exhibit A, p. 6, Line 8).
3. On [REDACTED] 2024, the Department received an application for MA for Spouse. (Exhibit A, pp. 7 – 16).
4. On April 1, 2024, the Department determined that the immigration statuses of MO, SA, TO, and AB were incorrectly recorded on the Department's records as refugees or asylees. (Exhibit A, p. 6, Line 16).
5. On April 19, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's income by April 29, 2024. (Exhibit A, pp. 23 – 24).
6. On April 30, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN):
 - a. Denying Petitioner MA July 1, 2023 through August 31, 2023, for failure to provide requested verifications,
 - b. Denying Spouse MA effective February 1, 2024 ongoing, for failure to provide requested verifications,
 - c. Closing MO, SA, TO, and AB's MA effective June 1, 2024 ongoing, concluding they were not under 21, pregnant, a caretaker of a minor child, over 65, blind, or disabled.(Exhibit A, pp. 17 – 21).
7. On May 7, 2024, the Department received a request for hearing from Petitioner, disputing denial and closure of each family member's MA. (Exhibit A, pp. 3 – 4).
8. On June 20, 2024, the Department sent Petitioner a HCCDN approving Petitioner, Spouse, MO, SA, TO, and AB for Emergency Services Only (ESO) MA.

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 to dispute the denial and closure of MA for each member of Petitioner's family. The Department initially denied Petitioner and Spouse MA for failure to return verification of income and closed MO, SA, TO, and AB's MA effective June 1, 2024 because the Department concluded they were not under 21, pregnant, a caretaker of a minor child, over 65, blind, or disabled. At the hearing, the Department testified that it sent Petitioner a HCCDN on June 20, 2024, approving Petitioner, Spouse, MO, SA, TO, and AB for ESO MA.

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 a permanent resident card with a class code¹ 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 only ESO coverage 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 and Petitioner agreed that Petitioner's family members are legal permanent residents who entered the US on the following dates:

- a. Petitioner on September 5, 2021,
- b. Petitioner's and his wife's four children, [REDACTED] (MO), [REDACTED] (SA), [REDACTED] (TO), and [REDACTED] (AB) on October 6, 2022, and
- c. Petitioner's wife [REDACTED] [REDACTED] (Spouse) on September 8, 2023.

Each member of Petitioner's family has been admitted to the US for less than five years. No evidence was offered that Petitioner, Spouse, MO, SA, TO, or AB were admitted to the US under an eligible class code or are qualified military non-citizens. Therefore,

¹ Class codes are used to describe the visa category used to admit an immigrant to the US as a permanent or temporary resident.

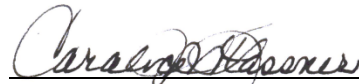
because Petitioner, Spouse, MO, SA, TO, and AB have not been permanent non-citizen residents for five or more years, do not have an eligible class code, are not the dependent child of a qualified military non-citizen or the spouse of a qualified military non-citizen, they are not eligible for full coverage MA at this time.

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 determined Petitioner, Spouse, MO, SA, TO, and AB were eligible for ESO MA only.

DECISION AND ORDER

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

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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

MDHHS-Wayne-17-hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

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