



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: Detroit 18, 2024
MOAHR Docket No.: 24-011247
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 November 25, 2024, from Detroit, Michigan. Petitioner appeared for the hearing with her son/Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist. Mona Sayed served as Arabic interpreter.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

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 or around September 19, 2023, Petitioner was issued a tourist visa that was to expire on December 17, 2023. Petitioner entered the United States as a tourist on or around November 17, 2023. (Exhibit A, p. 11)
2. On or around April 30, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that she was approved for full coverage MA benefits for May 1, 2024, ongoing.
3. On or around July 29, 2024, Petitioner submitted a new application requesting MA benefits. It was established that the application was submitted because Petitioner's full coverage MA benefits were terminated and her MA eligibility switched to Emergency Services Only coverage.

4. On or around August 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective August 1, 2024, she was approved for Emergency Services Only (ESO) MA benefits.
5. On or around September 6, 2024, Petitioner submitted verification of her permanent resident card showing that she became a legal permanent resident on July 7, 2024, under the IR0 category, based on her status as a parent of a U.S. citizen. (Exhibit A, pp. 1, 13)
6. On or around September 19, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. (Exhibit A, pp. 3-4)

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.

In this case, Petitioner requested a hearing disputing the Department's finding that she is eligible for ESO MA coverage effective August 1, 2024. The Department testified that Petitioner was initially approved for full coverage MA in error, as she has never been eligible for MA under that program based on her status as a non-citizen residing in the U.S. less than five years.

To be eligible for full coverage MA, a person must be a U.S. citizen or a non-citizen admitted to the U.S. under a specific immigration status. BEM 225 (August 2024), pp. 1-4. An individual who is a lawful permanent resident with a class code on the permanent residency card (I-551) other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military non-citizen or the spouse or dependent child of a qualified military non-citizen or a noncitizen rolled into the U.S. For at least one year under INA Section 212(d)(5). BEM 225, pp. 7-8. A qualified military noncitizen is a qualified noncitizen on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, pp. 5-7. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration

Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

At the hearing, there was no dispute that Petitioner is not a U.S. citizen and that she became a legal permanent resident on or around July 7, 2024. Petitioner's legal permanent residency card was presented for review and does not show a class code of RE, AM or AS. There was also no evidence presented that Petitioner was a qualified military noncitizen or the spouse of a qualified military noncitizen.


Petitioner's AHR asserted that Petitioner entered the United States on or around November 17, 2023, via a tourist visa and that the information was accurately reported to the Department, prior to the approval for full coverage MA benefits. Petitioner's AHR asserted that Petitioner is disabled, over age 65, was issued a Social Security number and State of Michigan identification, and thus should be eligible to receive full coverage MA benefits. Notwithstanding the testimony provided by Petitioner's AHR, because Petitioner has not been a permanent resident noncitizen for five or more years, does not have an eligible class code, is not a qualified military alien or spouse of a qualified military alien, and does not meet the eligibility criteria identified in BEM 225, she is not eligible for full-coverage MA.

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 processed Petitioner's MA benefits and determined that she was eligible only for ESO MA coverage effective August 1, 2024.

DECISION AND ORDER

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

ZB/ml


Zainab A. Baydoun
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:

Authorized Hearing Rep.

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Petitioner

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