

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. Nos.: 15-016085
and 15-016086
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: October 14, 2015
County: DHHS SSPC OFFICE

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Pursuant to a September 8, 2014, federal lawsuit, the Department of Health and Human Services (Department) issued notices to Medicaid applicants who were potentially denied full Medicaid coverage based on immigration status between January 2014 and May 2015. The notice included information about how to request a hearing. Petitioner filed a request for a hearing and accordingly this matter is before the undersigned Administrative Law Judge pursuant to Michigan Administrative Hearing Rules (R 792.10101 – R 792.11903) and the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*

After due notice, a telephone hearing was held on October 14, 2015, from Detroit, Michigan. The hearings under Registration No. 15-016085 concerning Petitioner [REDACTED] and under Registration No. 15-016086 concerning Petitioner [REDACTED] husband, were consolidated. Petitioner [REDACTED] appeared on behalf of himself and Petitioner [REDACTED], his wife. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as [REDACTED] translator during the hearing.

ISSUE

Did the Department properly determine Petitioner's immigration status or citizenship when determining 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. On July 8, 2014, Petitioners applied for MA (Exhibit A).
2. At the time of MA application, Petitioners submitted their permanent resident cards showing U.S. residency since April 4, 2012 (Exhibit C).

3. On July 22, 2014, the Department sent Petitioners Health Care Coverage Determination Notices notifying them that they were approved for Emergency Services Only (ESO) MA coverage for July 1, 2014, to July 31, 2014 (Exhibit D).
4. On an unknown date, the Department issued a notice to Petitioners indicating they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 26, 2015, Petitioners requested a hearing.

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), Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), 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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioners requested a hearing disputing the Department granting them ESO MA rather than full-coverage MA for July 2014. To be eligible for full coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2014), p. 2. An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible for ESO MA coverage only for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. 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.

In this case, Petitioner Ali testified that he and his wife had never been in the U.S. military. Their permanent resident cards showed that they were originally from [REDACTED] and had resided in the U.S. since [REDACTED]. The cards do not show a class code of RE, AM or AS. Because at the time of their July 8, 2014, MA application Petitioners had not been permanent resident aliens for five or more years, did not have

eligible class codes of RE, AM or AS, and were not qualified military aliens, they were not eligible for full-coverage MA.

The Department's evidence showed that Petitioners were approved for ESO MA for July 2014 only. The Department was unable to explain why they were not approved for ongoing ESO MA coverage. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to provide ongoing ESO MA coverage.

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 properly determined Petitioners' immigration status when determining MA eligibility but did not act in accordance with Department policy when it failed to provide ongoing ESO MA coverage.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED**. However, the Department's failure to provide ongoing ESO MA to Petitioners is **REVERSED**.

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. Provide Petitioners with ESO MA from September 1, 2014, ongoing.



Alice Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed:

ACE/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

cc:

