

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016176
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: DHHS Special Processing Office

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on November 19, 2015 from Lansing, Michigan. The Petitioner was represented by [REDACTED]. The Department was represented by [REDACTED] (Eligibility Specialist). [REDACTED] ([REDACTED]) from [REDACTED] served as 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 September 20, 2014, Petitioner applied for MA benefits.
2. On the date of MA application, the Petitioner was a citizen of Bangladesh, but had permanent resident alien status.
3. Beginning September, 2014, the Department approved Petitioner's MA application for Emergency Services Only (ESO) MA coverage.

4. On October 14, 2014, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 26, 2015, Petitioner 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), 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, Petitioner requested a hearing disputing the activation of ESO MA coverage. The Department conceded that it had improperly approved Petitioner's family group for ESO MA coverage due to an error with the Department's Bridges computer system. The Department further contends that it has since corrected the Bridges error and issued Petitioner with a Health Care Coverage Determination Notice (DHS-1606) on October 29, 2015. The Department offered to include the October 29, 2015 DHS-1606 as an exhibit via email. However, neither the Administrative Law Judge, nor Petitioner received a copy of this document prior to the hearing. As a result, the Administrative Law Judge was unable to admit the DHS-1606 into evidence. The Department represented indicated that Petitioner currently has full MA coverage through December, 2015.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (10-1-2014), p. 1. The record shows that Petitioner and his family are from Bangladesh but they had permanent resident alien status at the time of application. The record is undisputed that the Department erred when it initially processed Petitioner's MA application and provided them with 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 **did not** properly determine Petitioner's immigration status or citizenship when determining MA eligibility.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status 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. Redetermine MA eligibility in accordance with Department policy, if not already done.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Mailed: **11/20/2015**

CAP/las

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System.

cc:

